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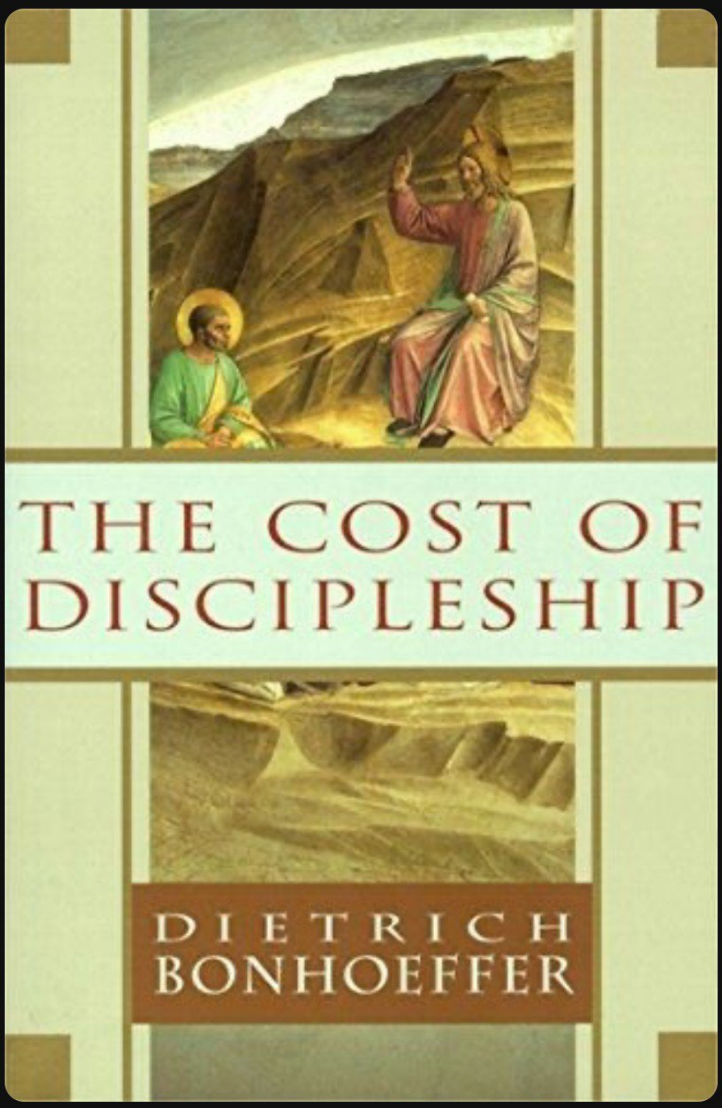

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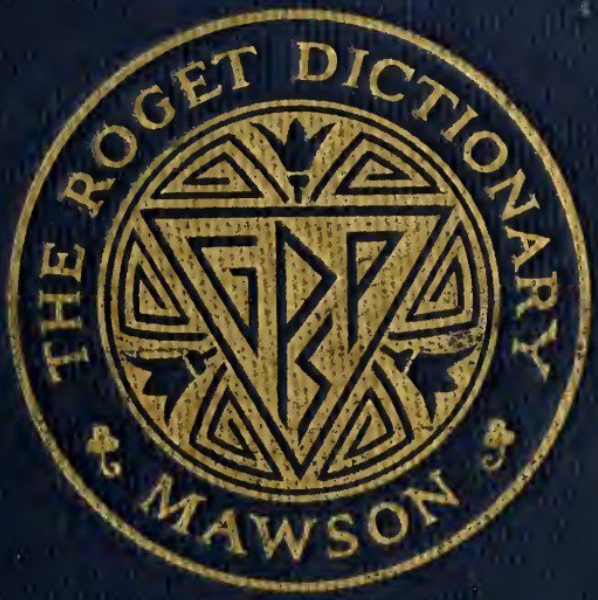
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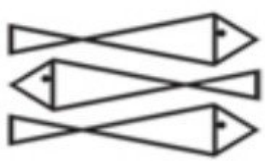

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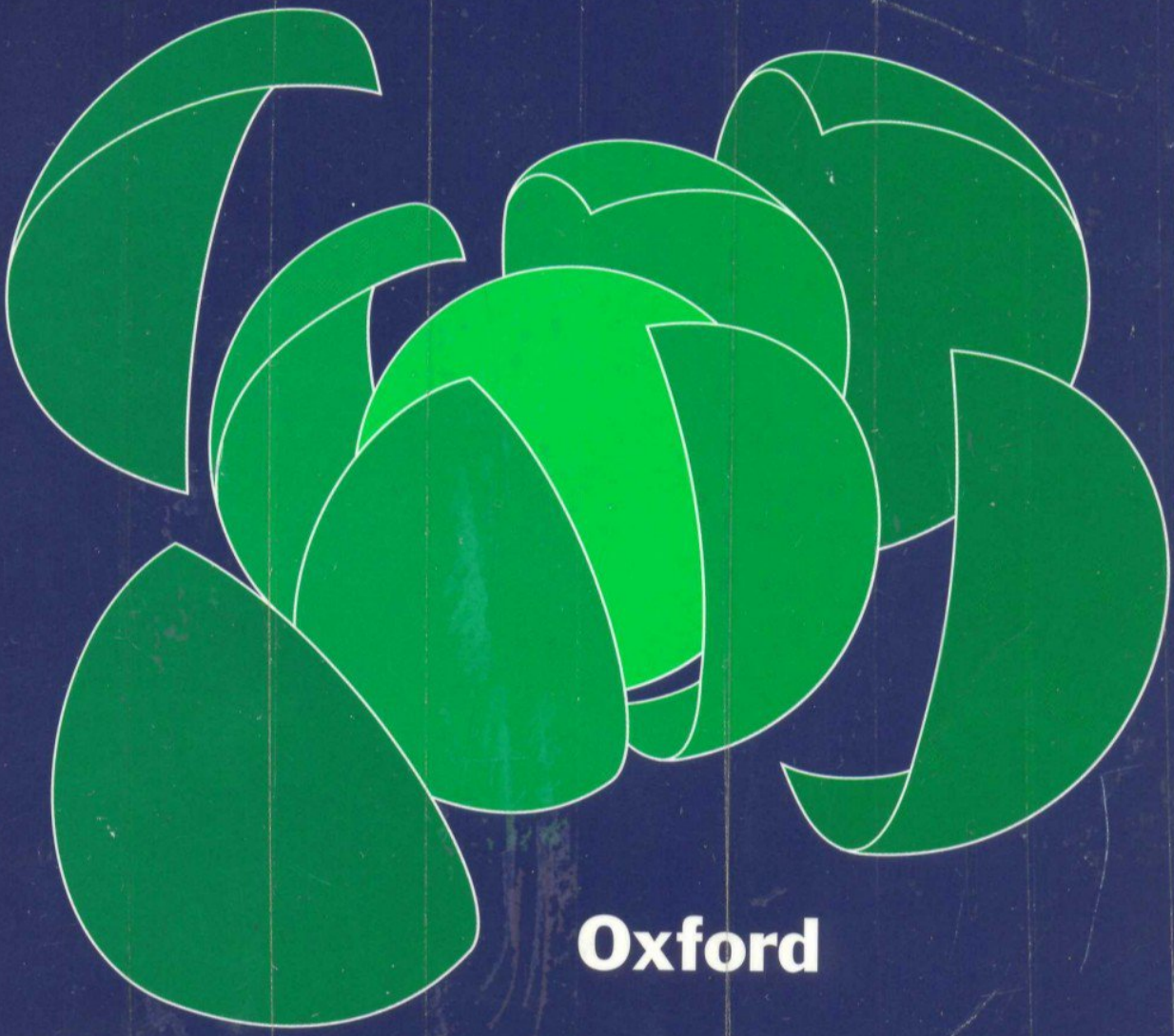

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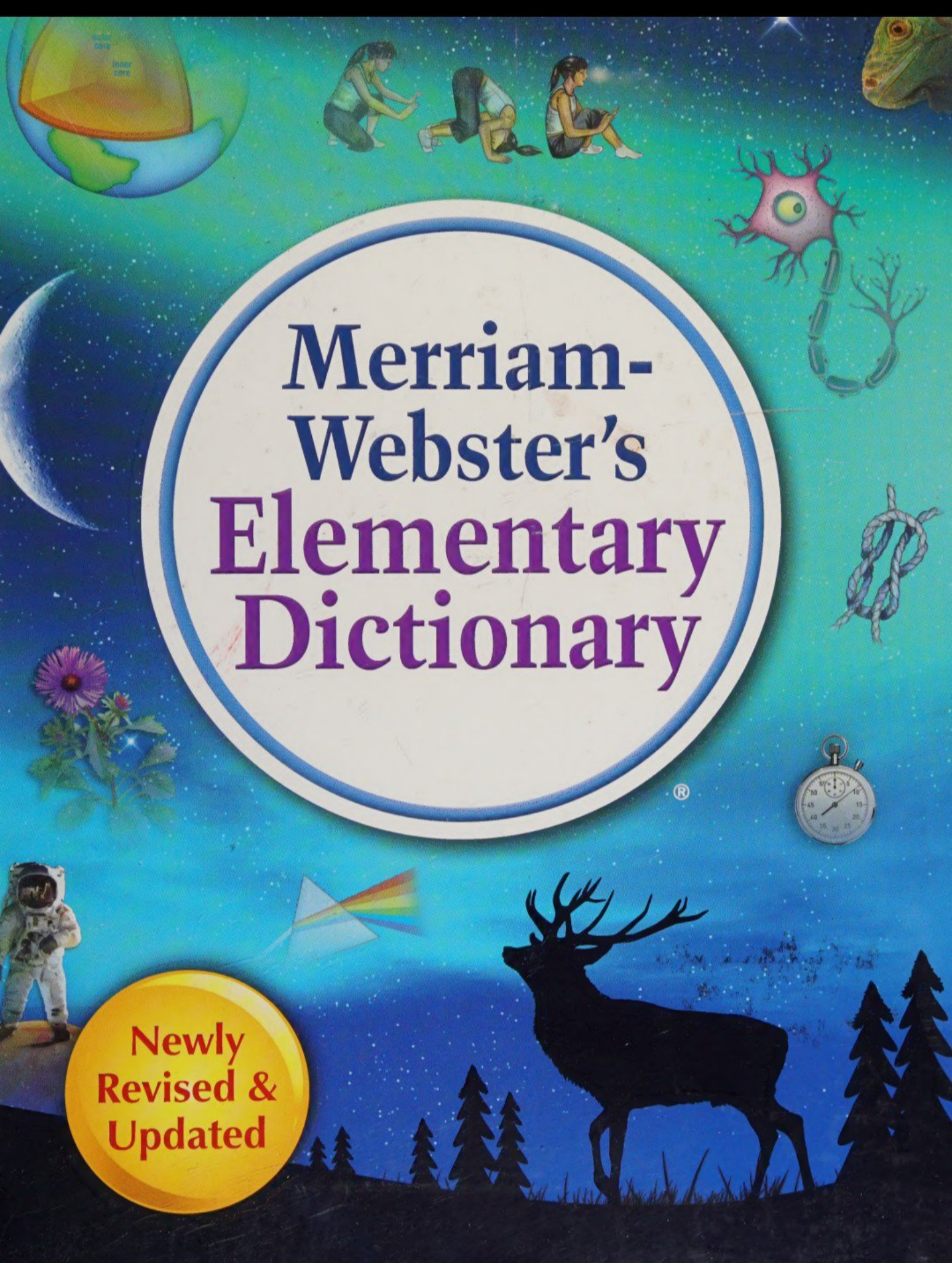
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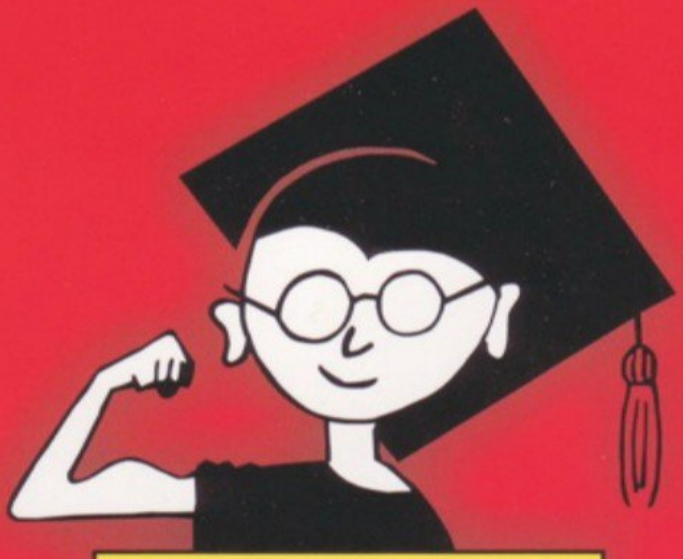

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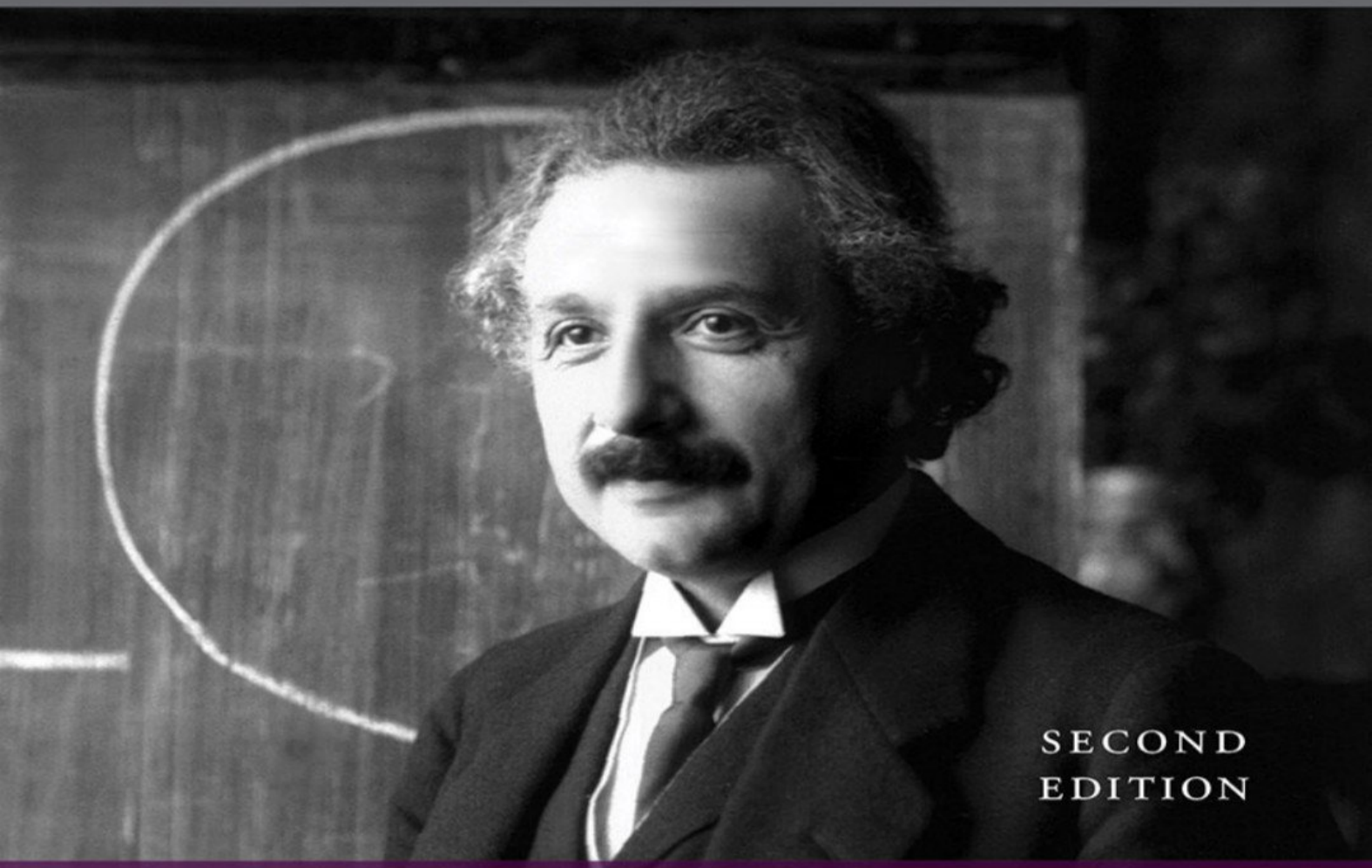

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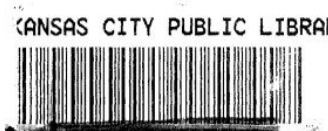

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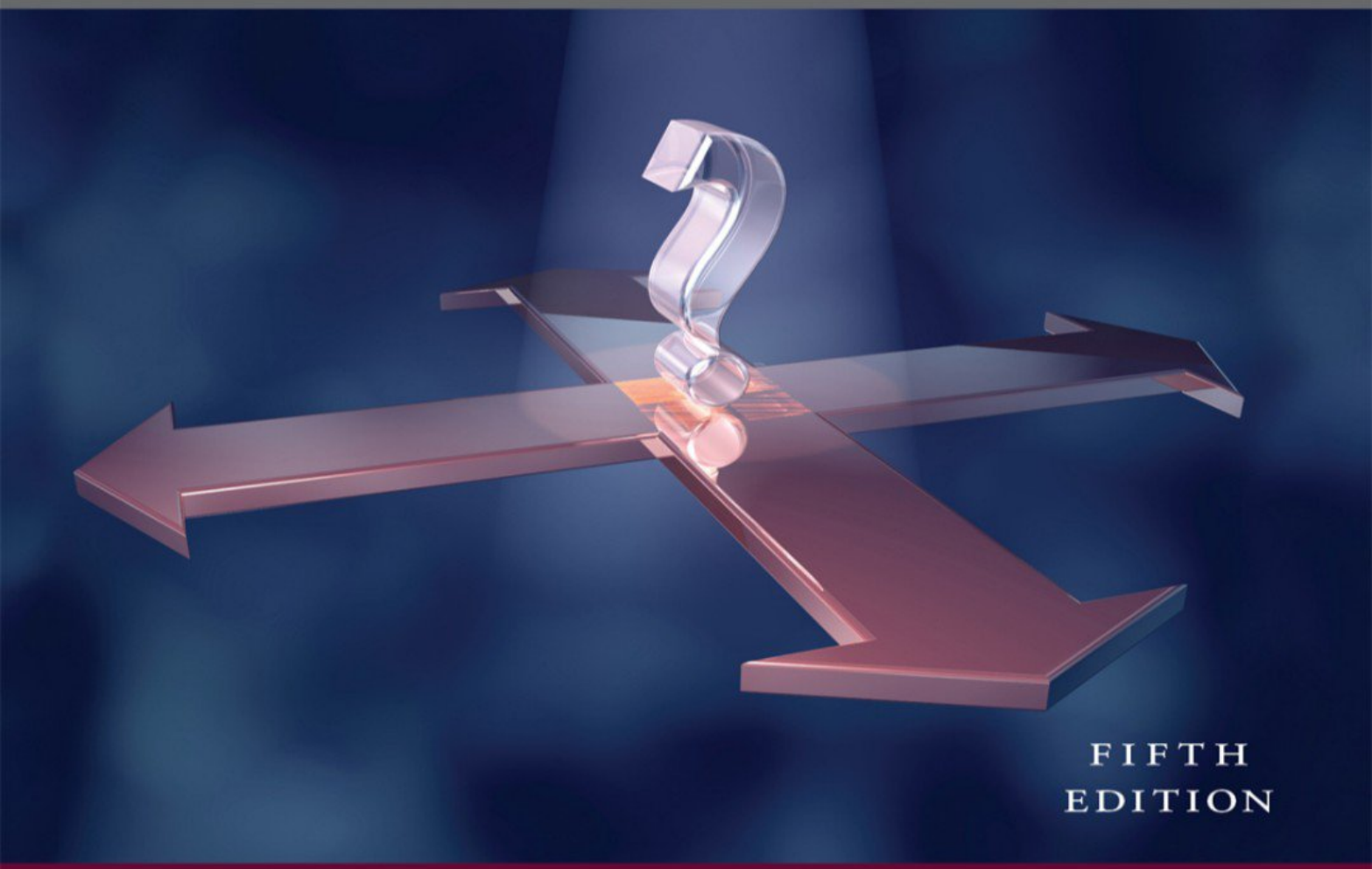

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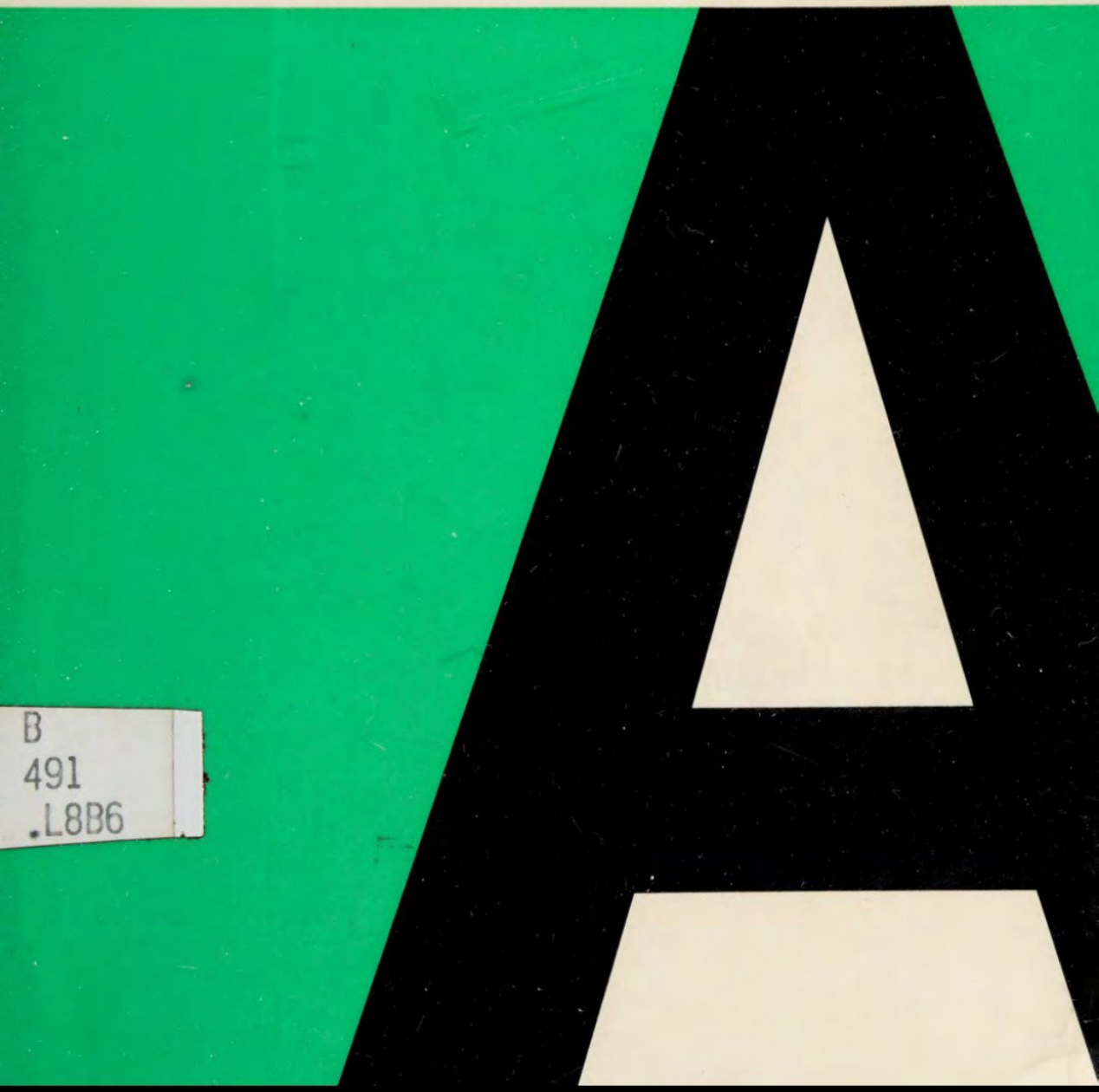

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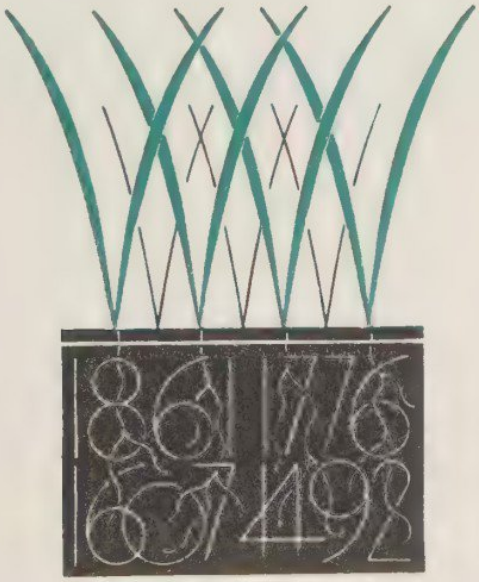

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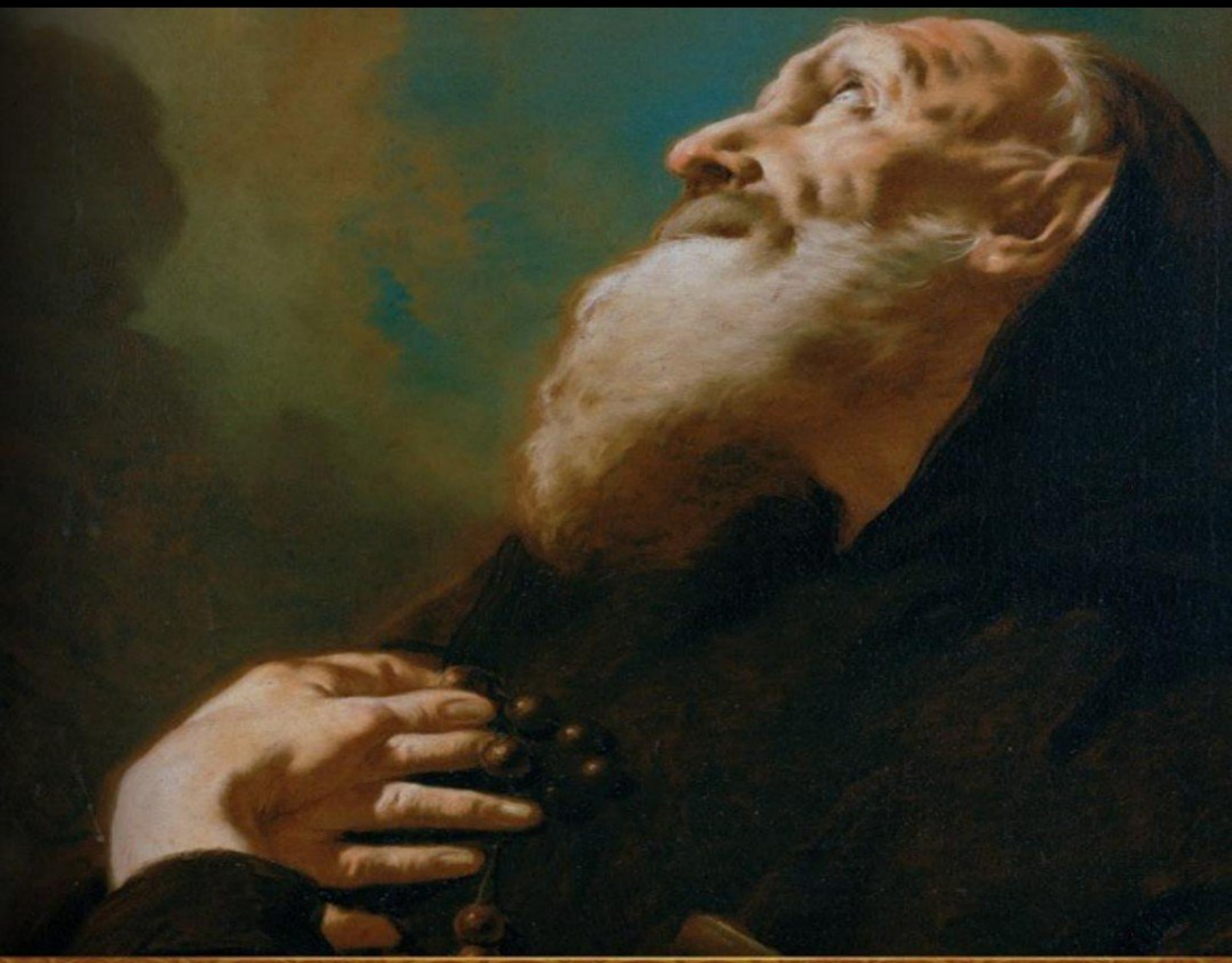

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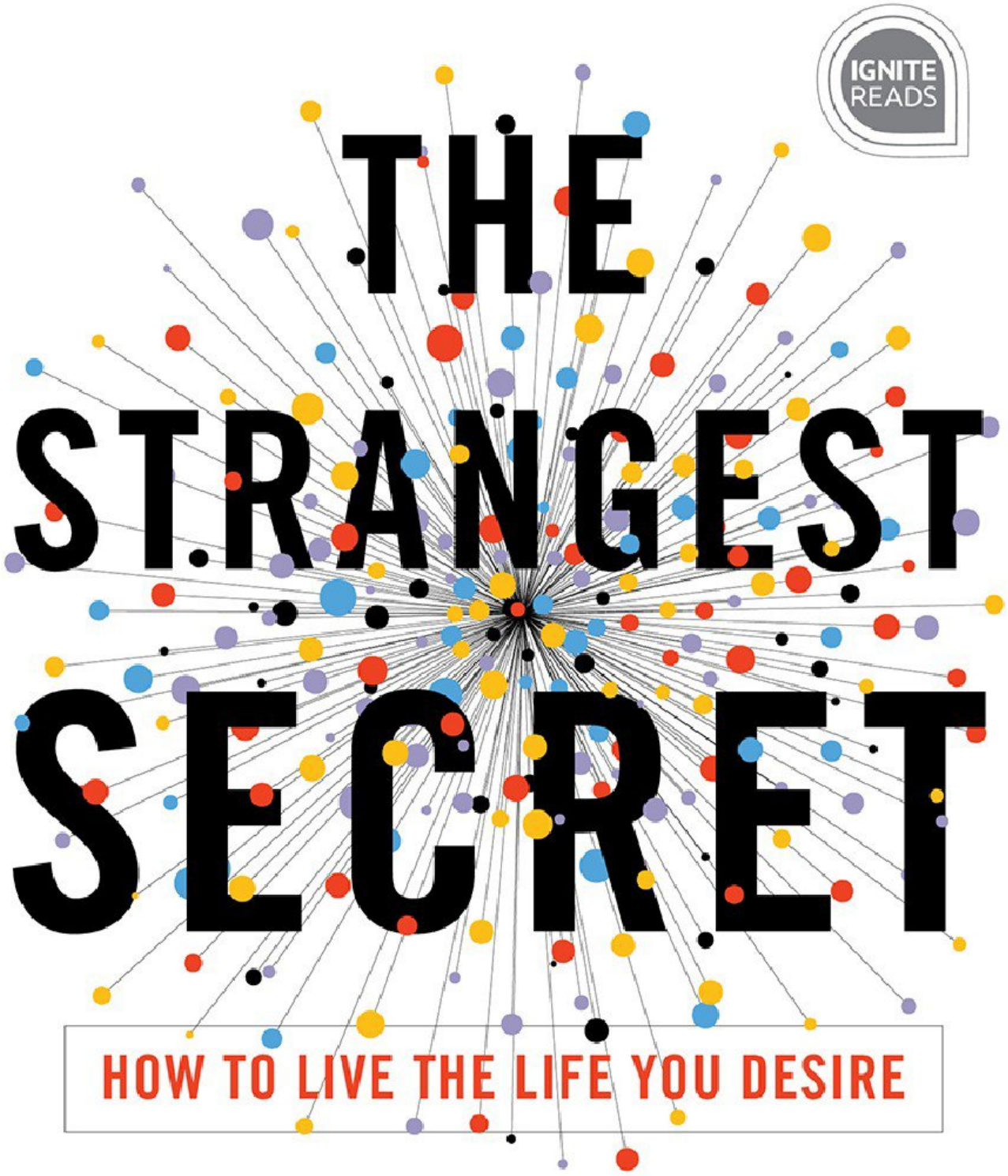

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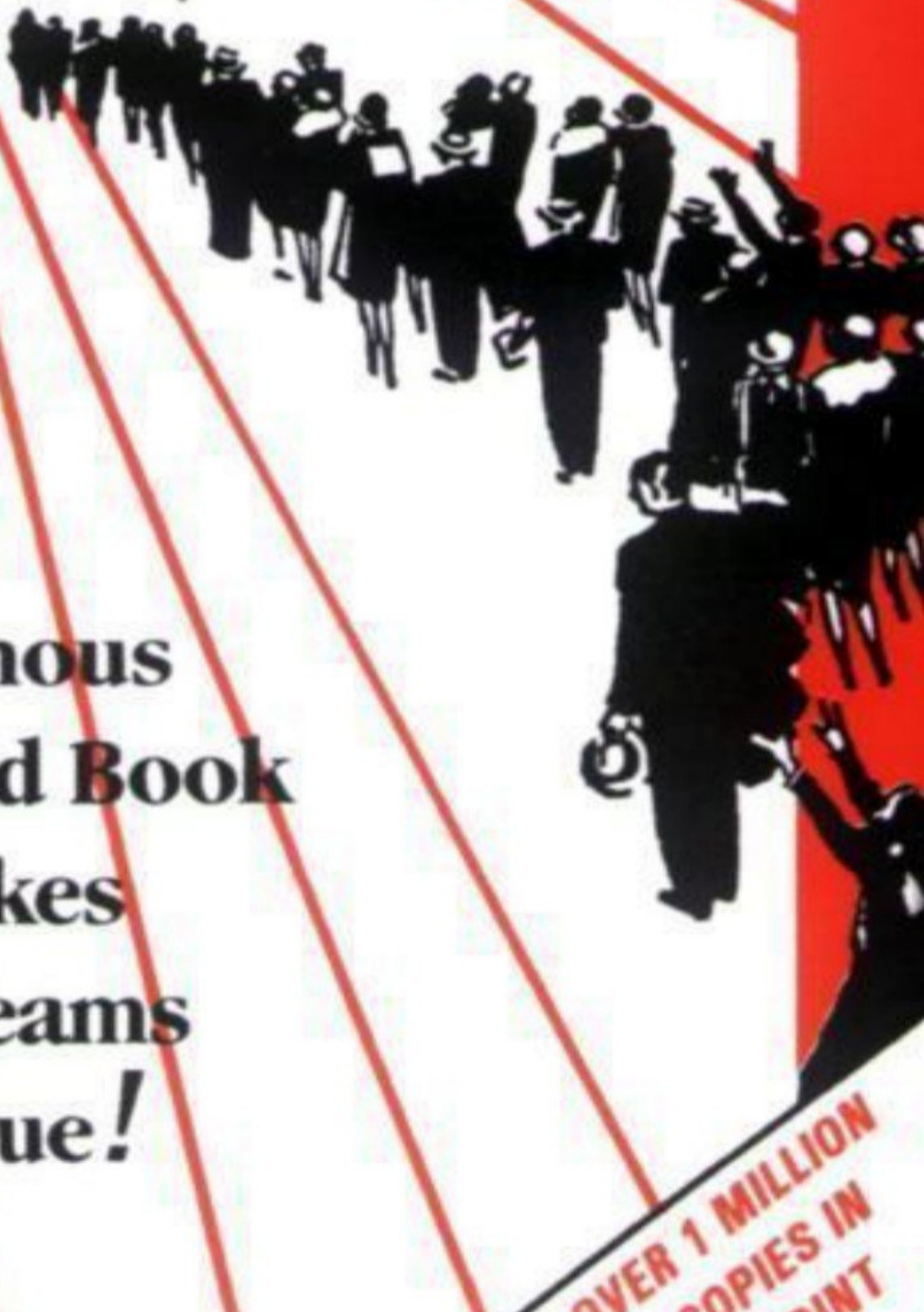

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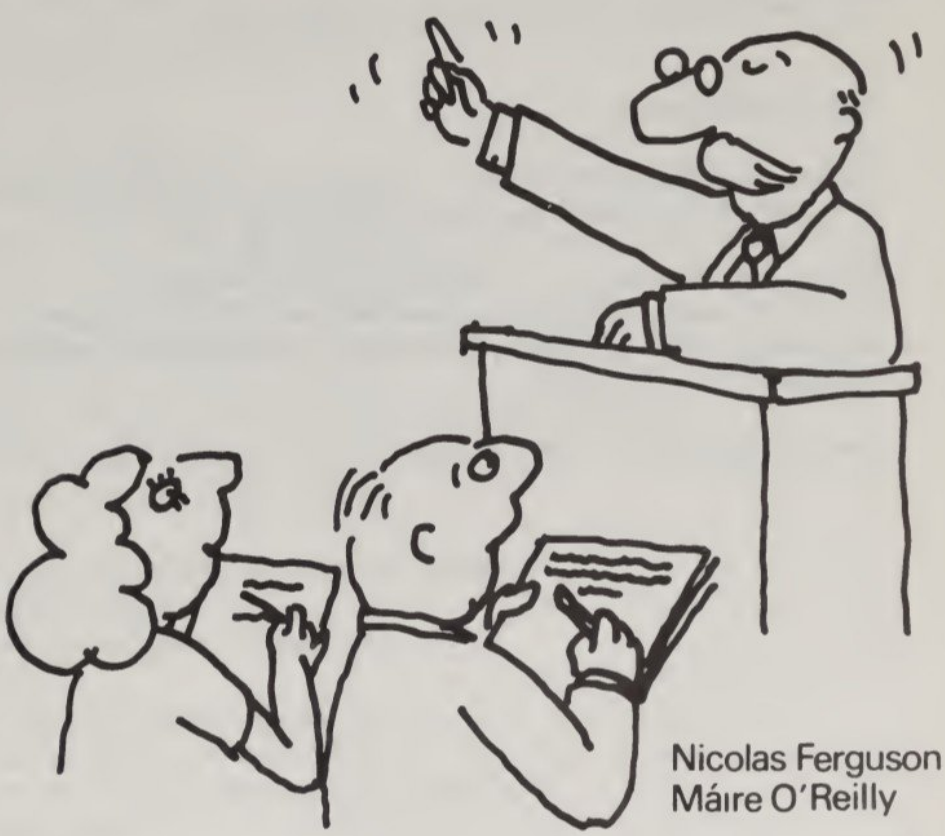

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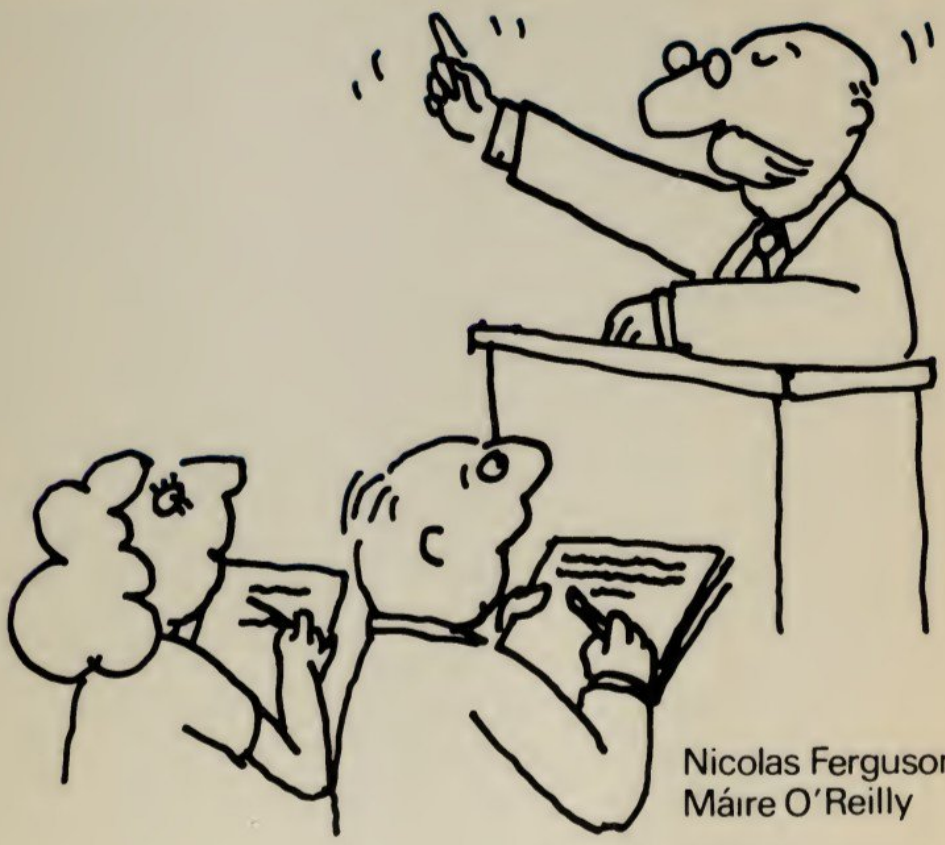

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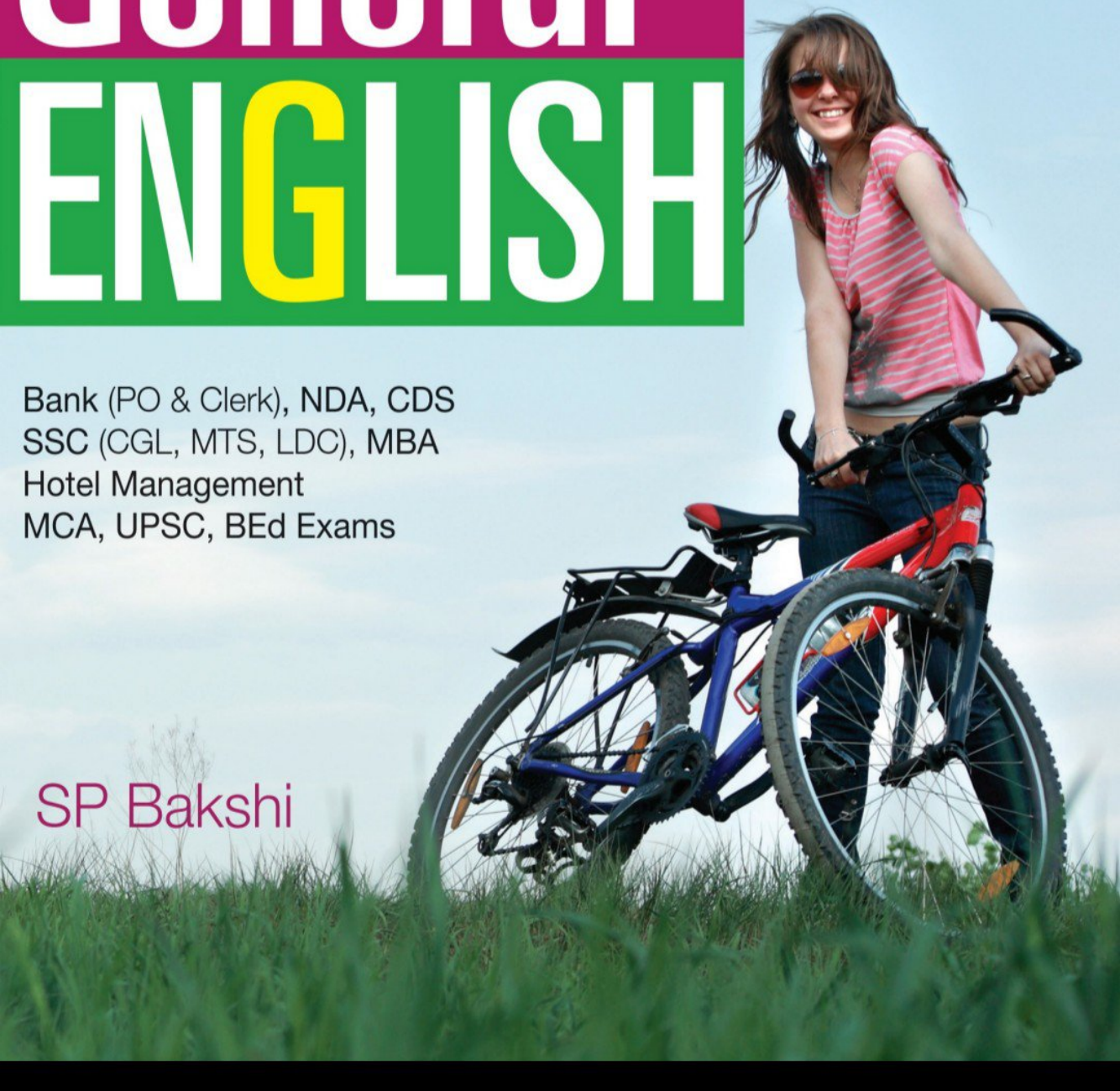

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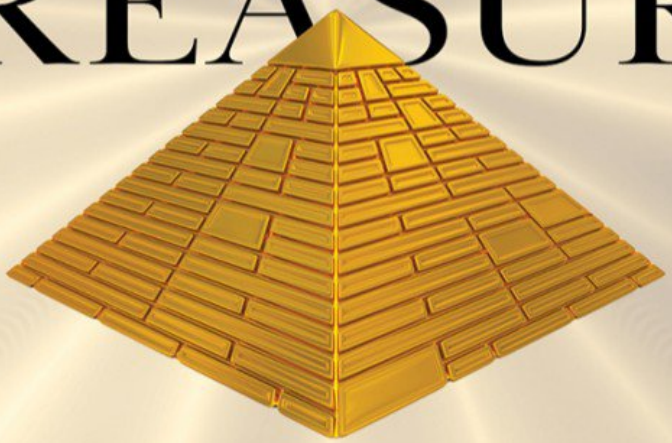

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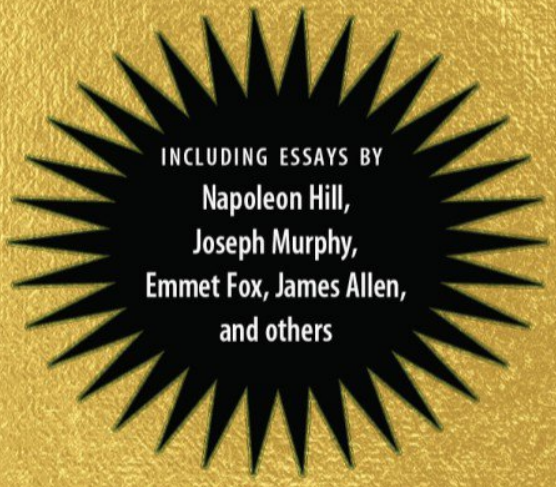

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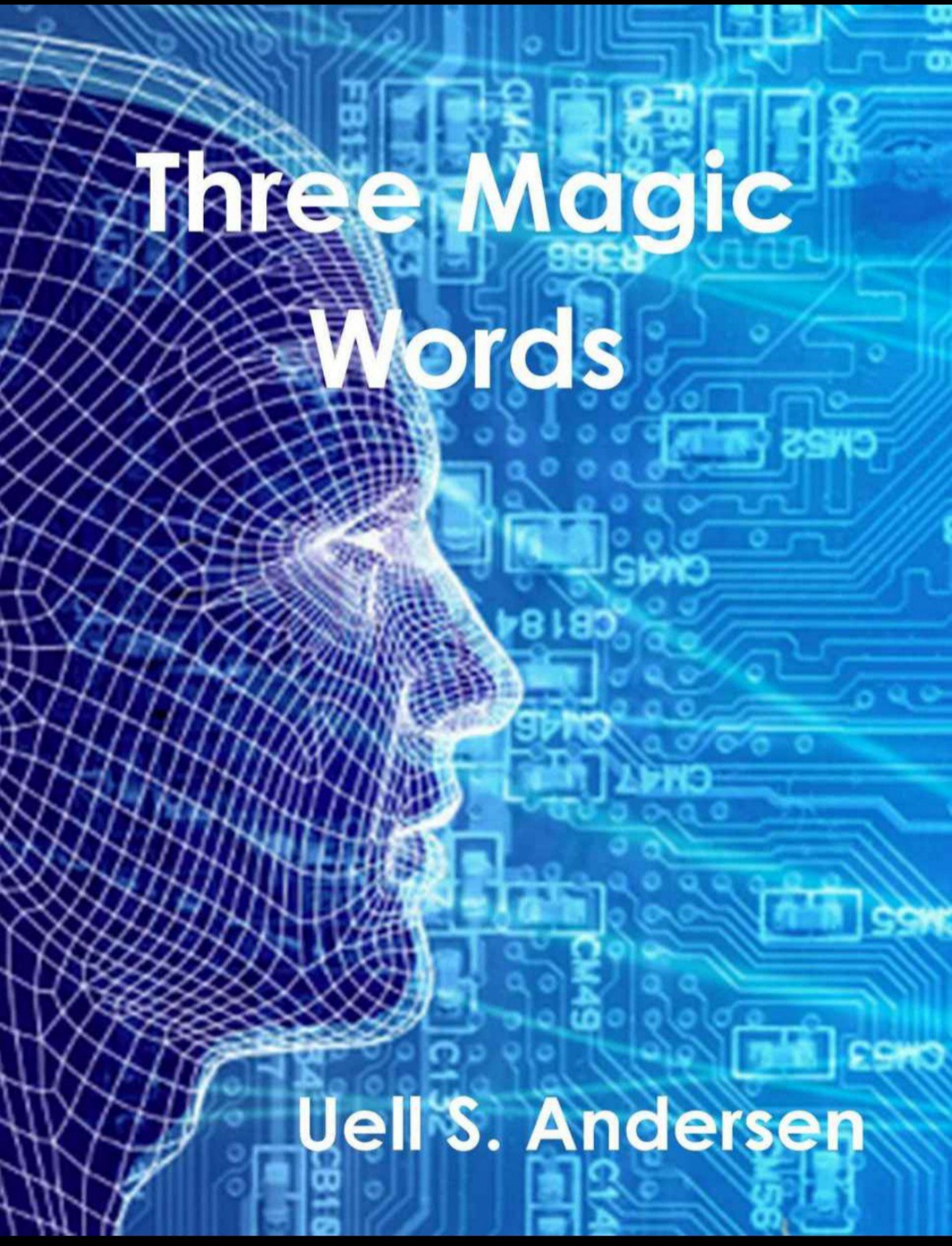
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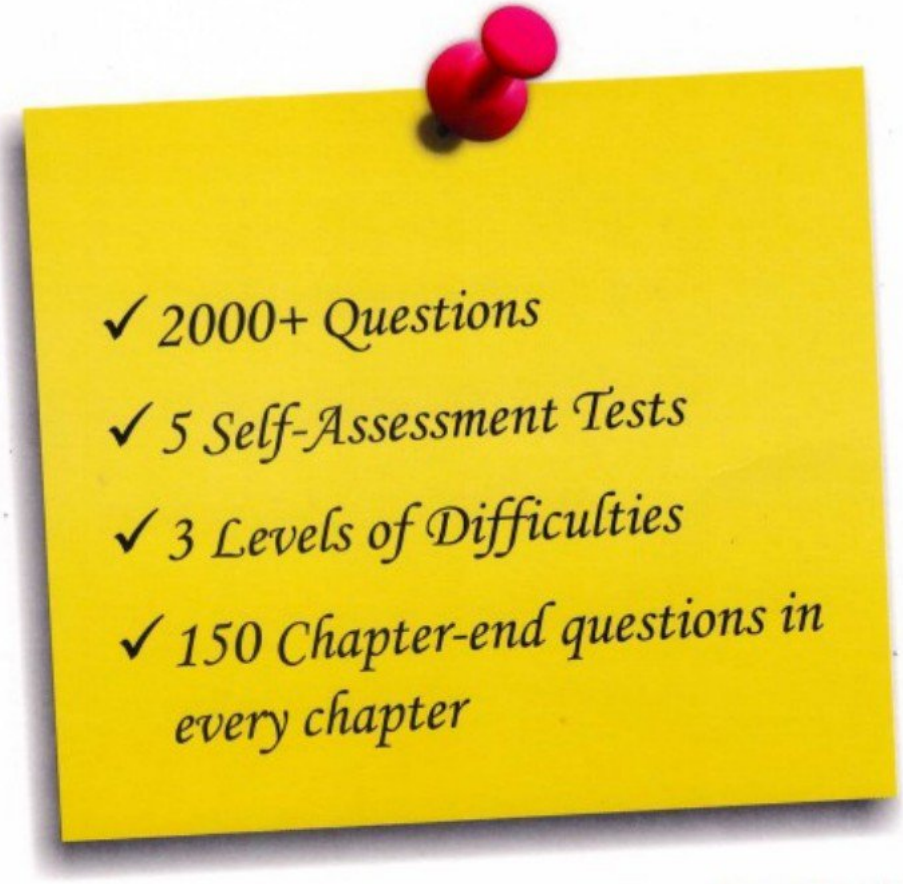

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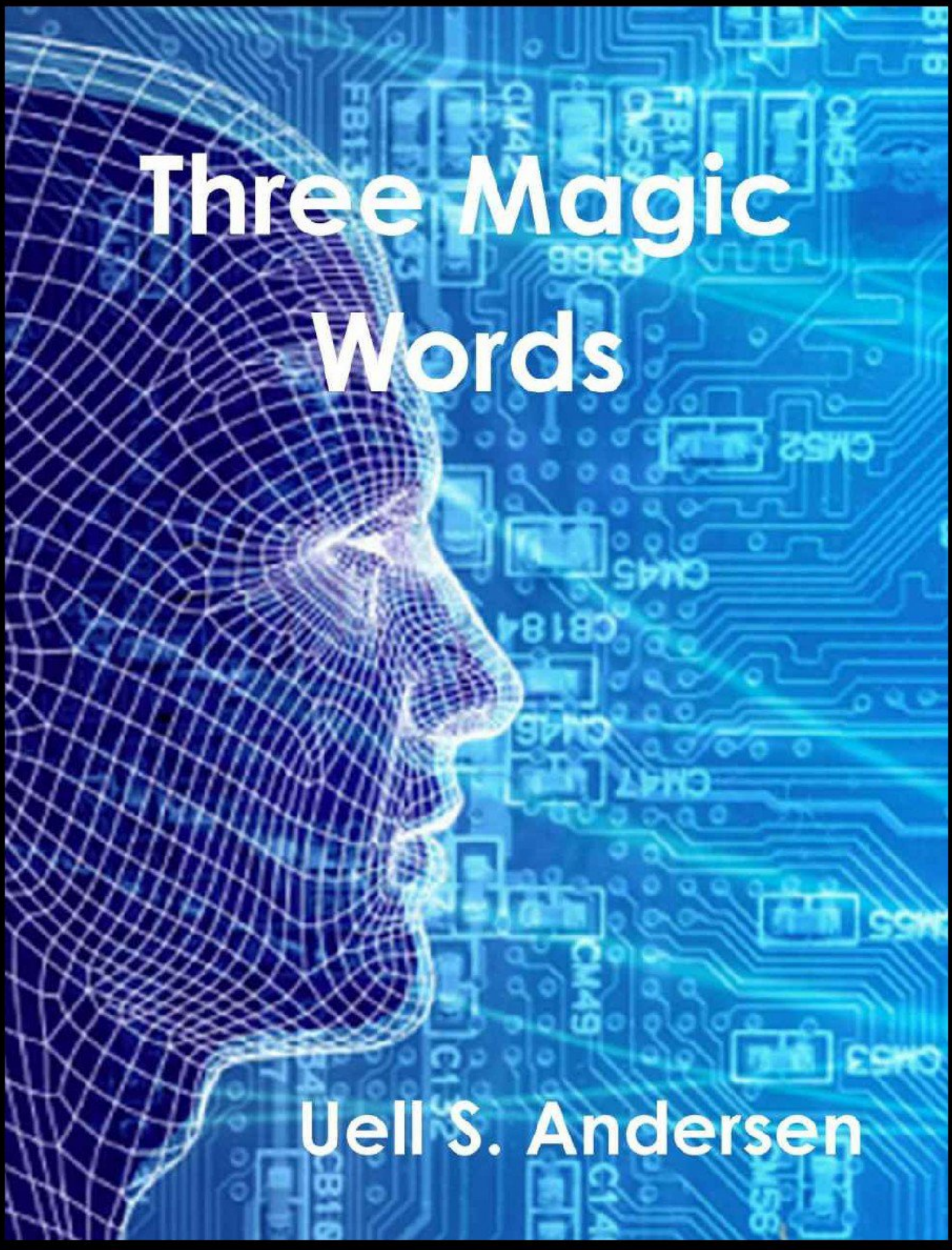
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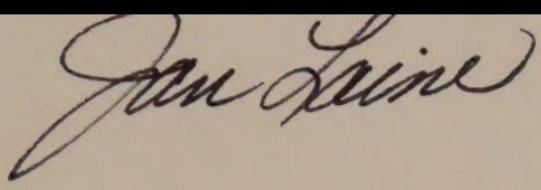

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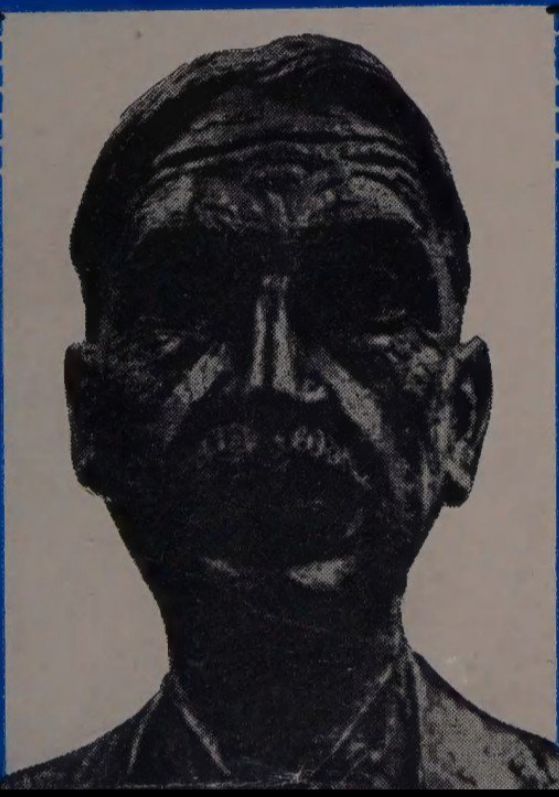

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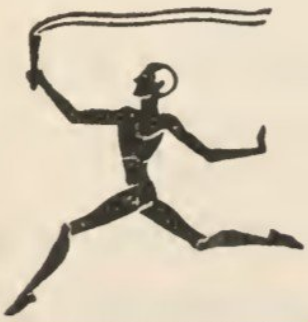

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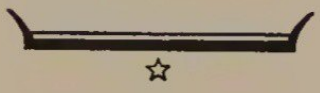

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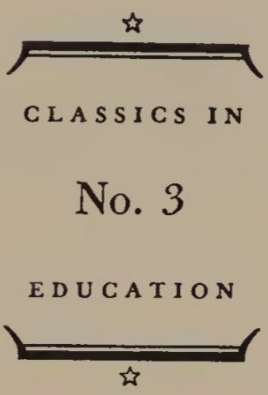

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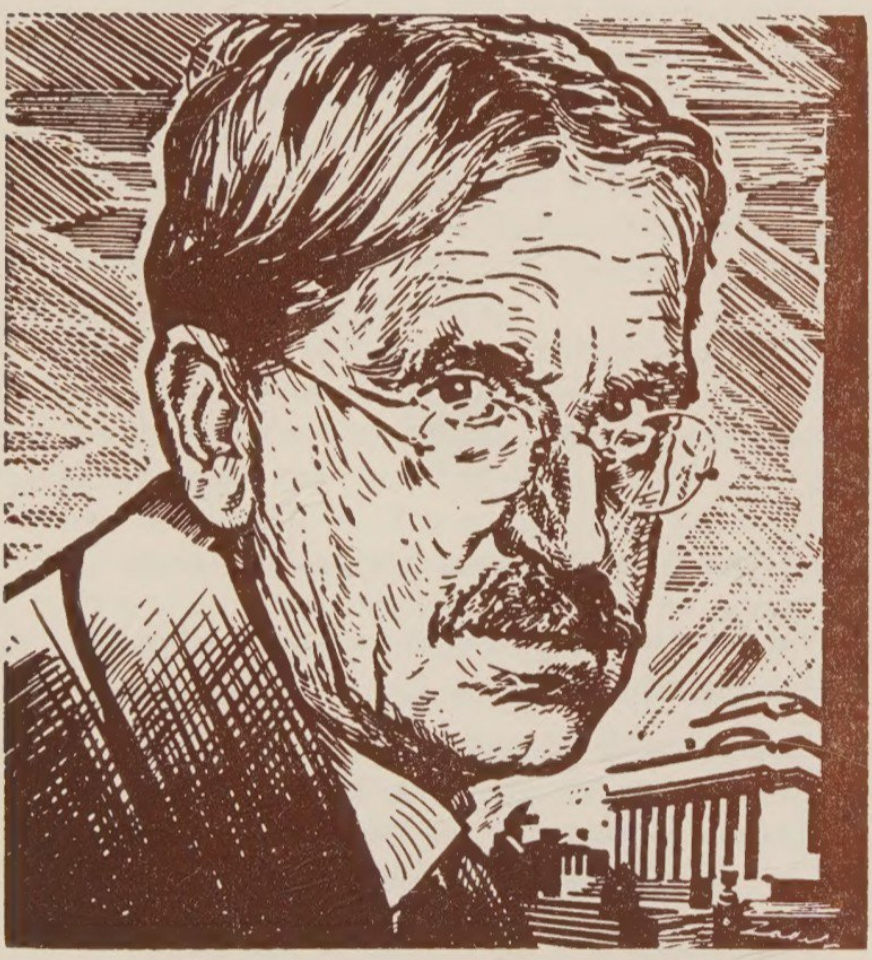

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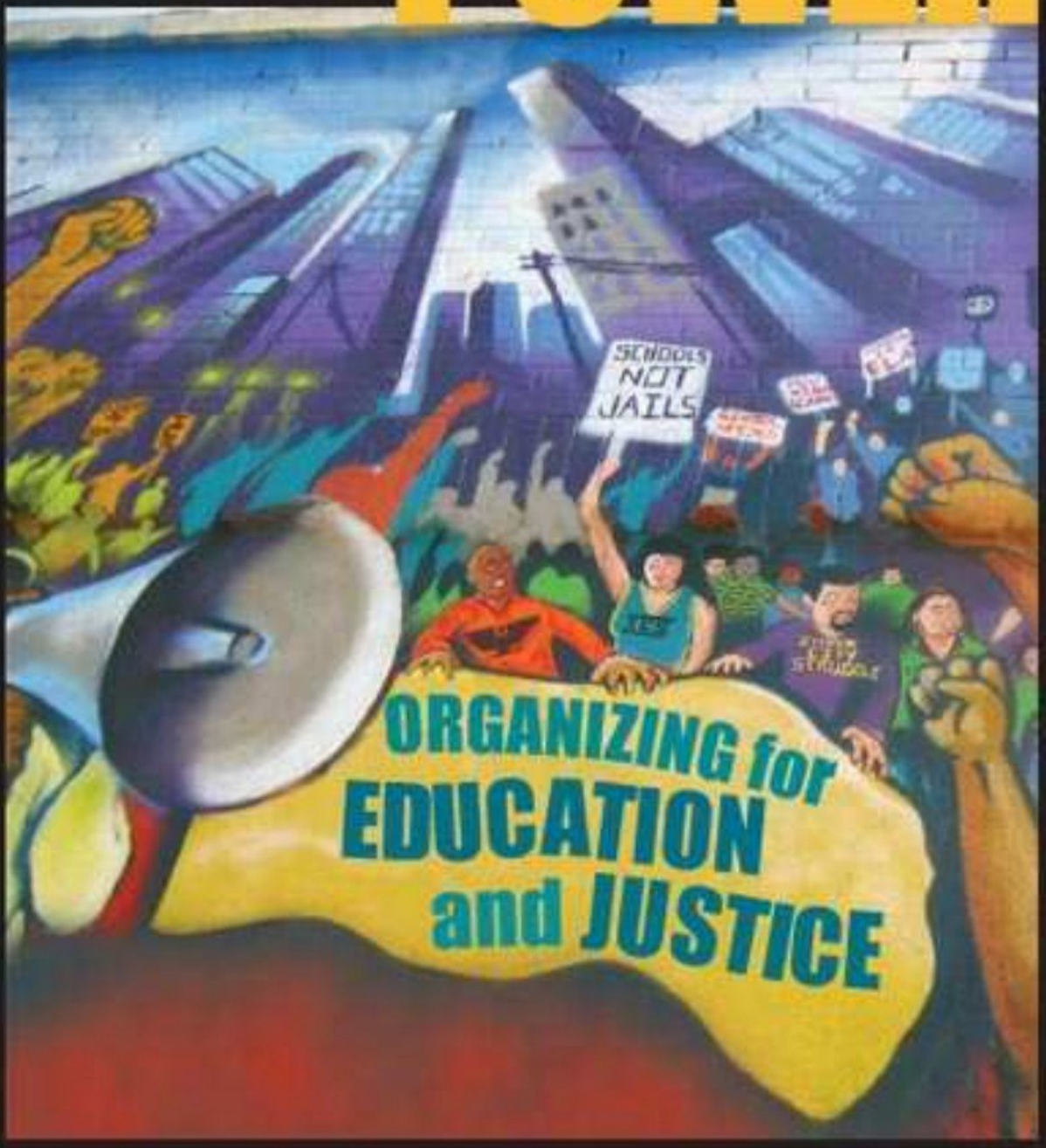

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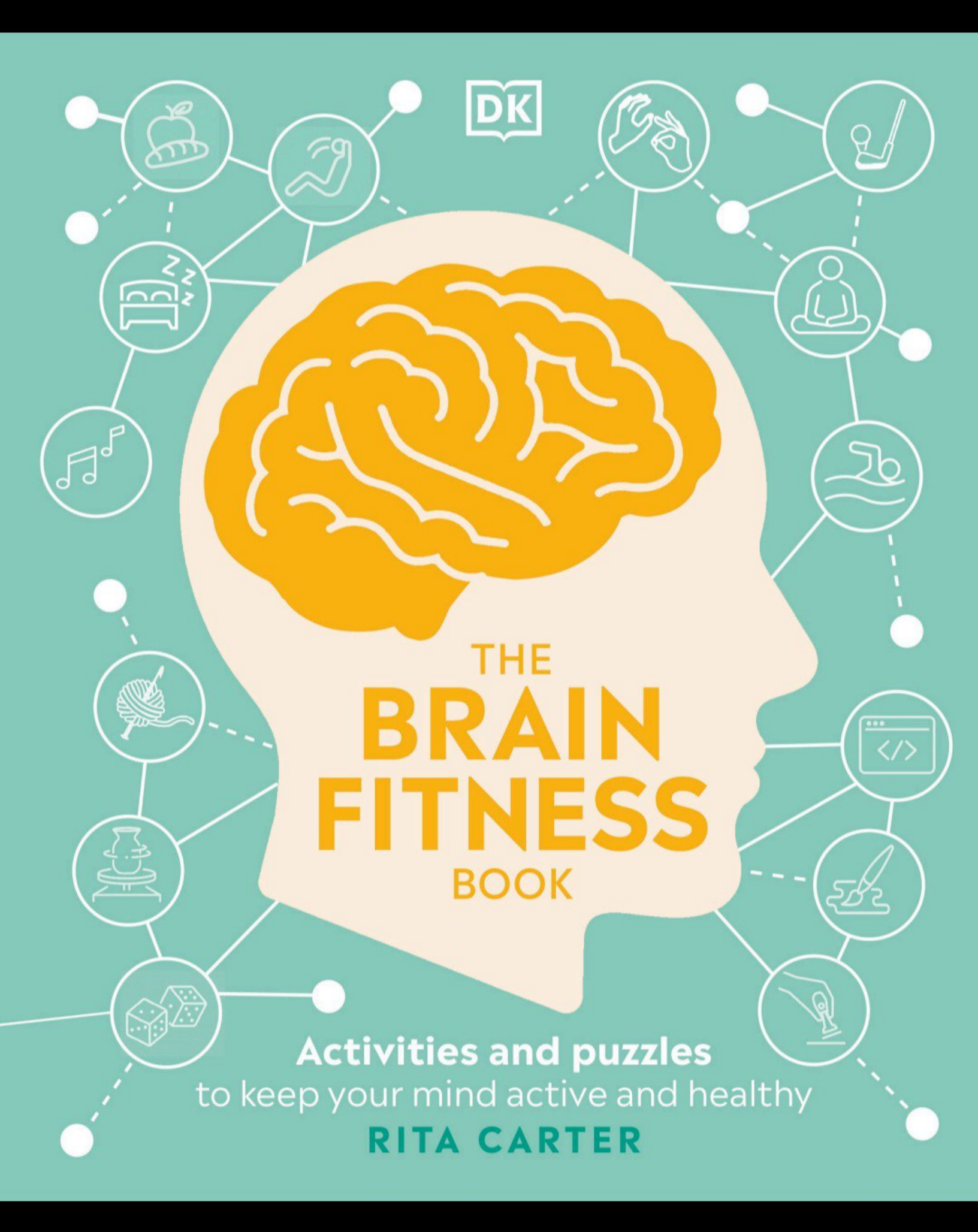
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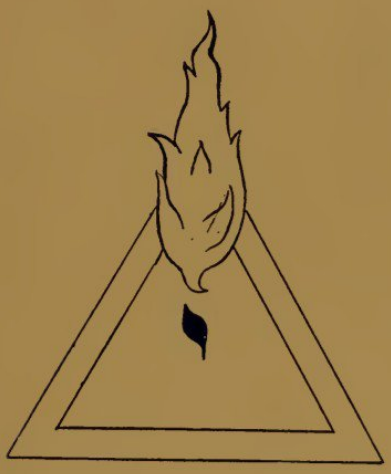

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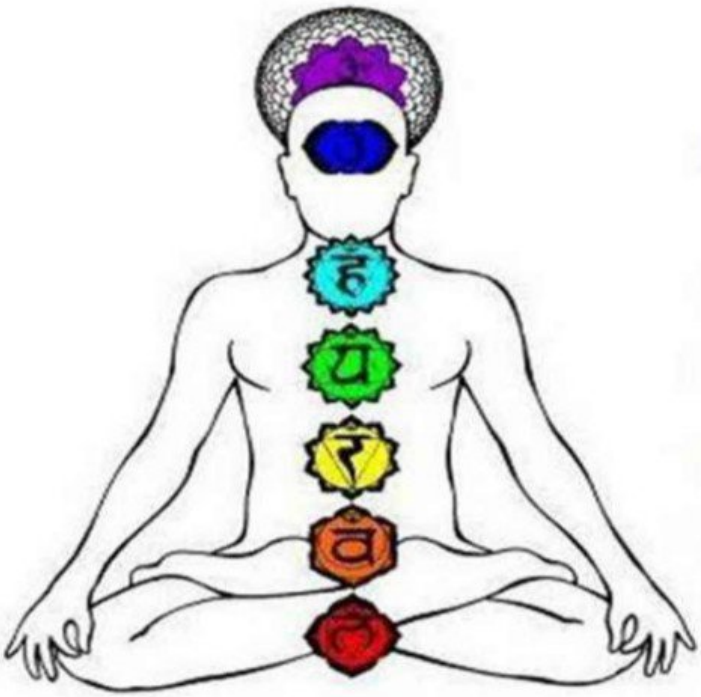

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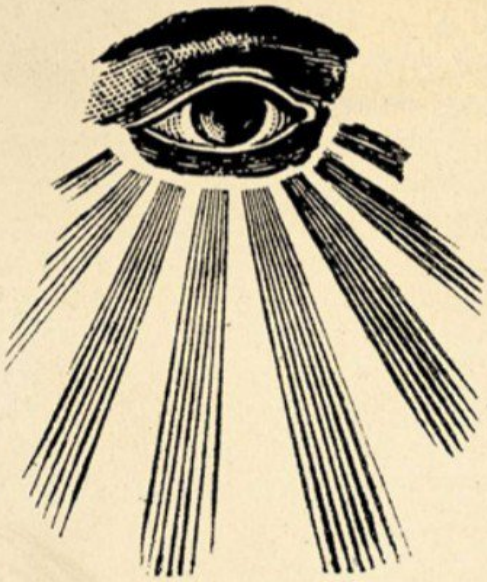

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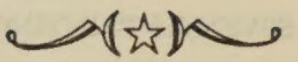

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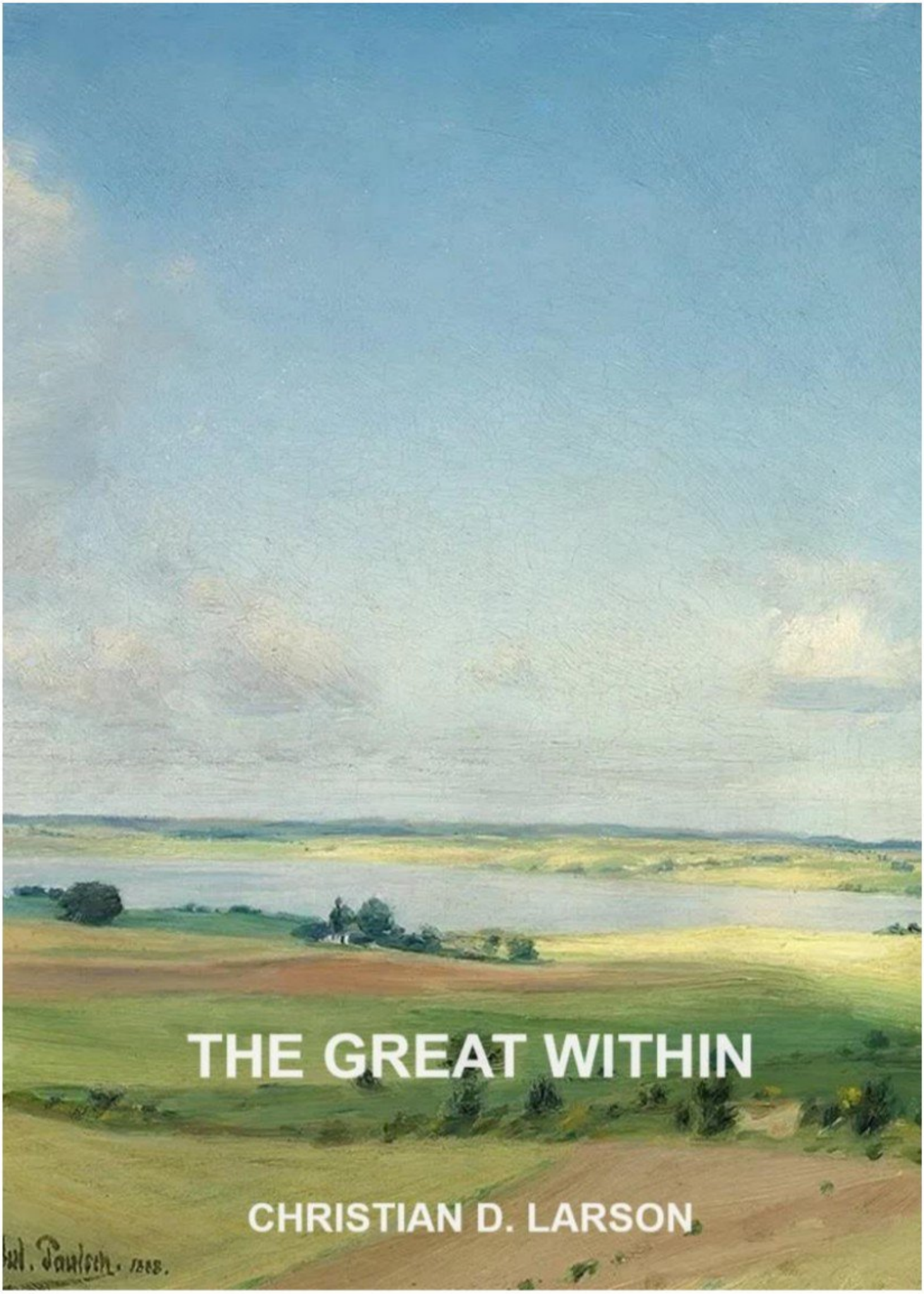
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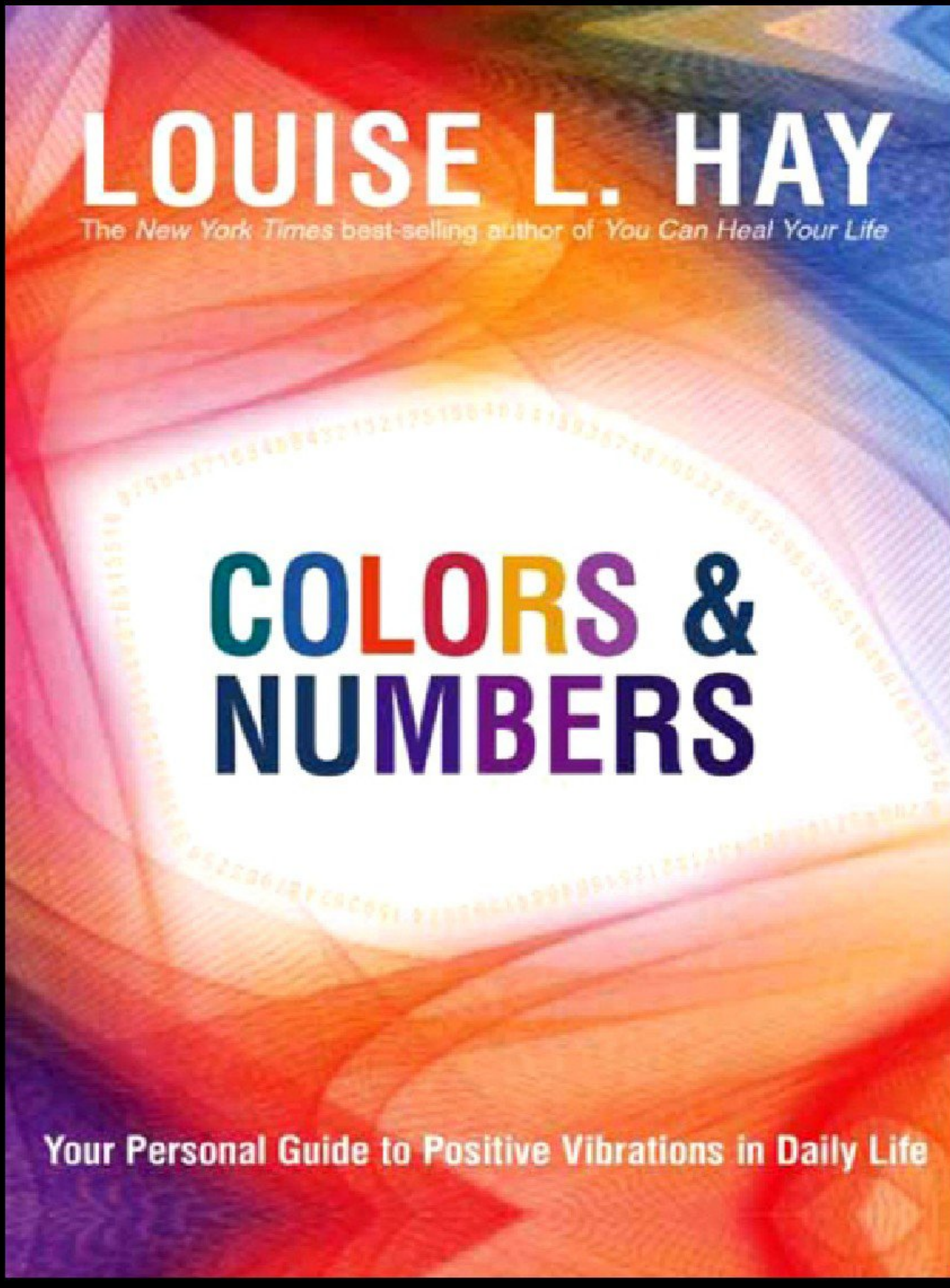
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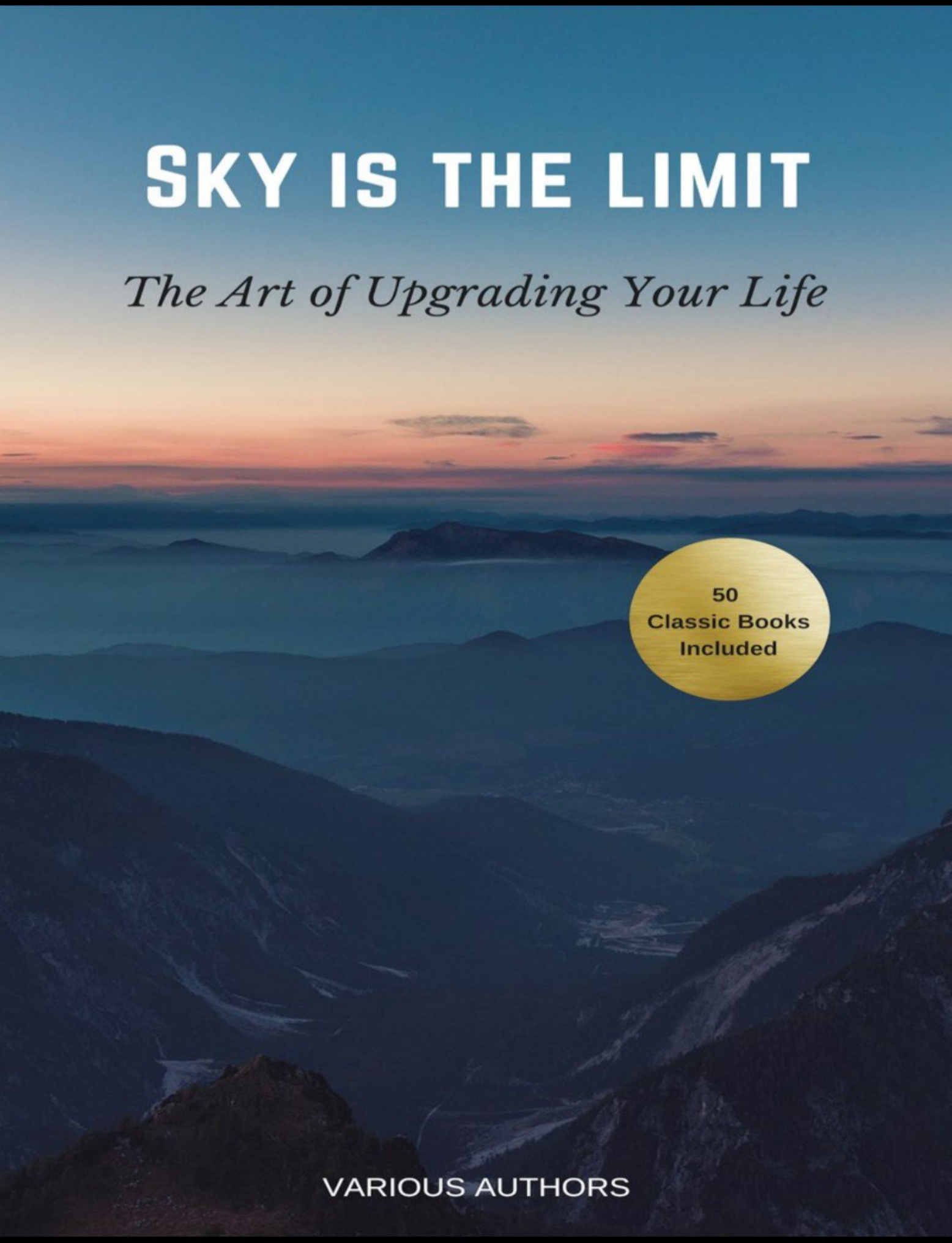
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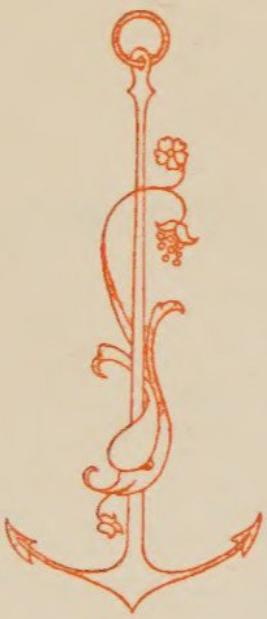

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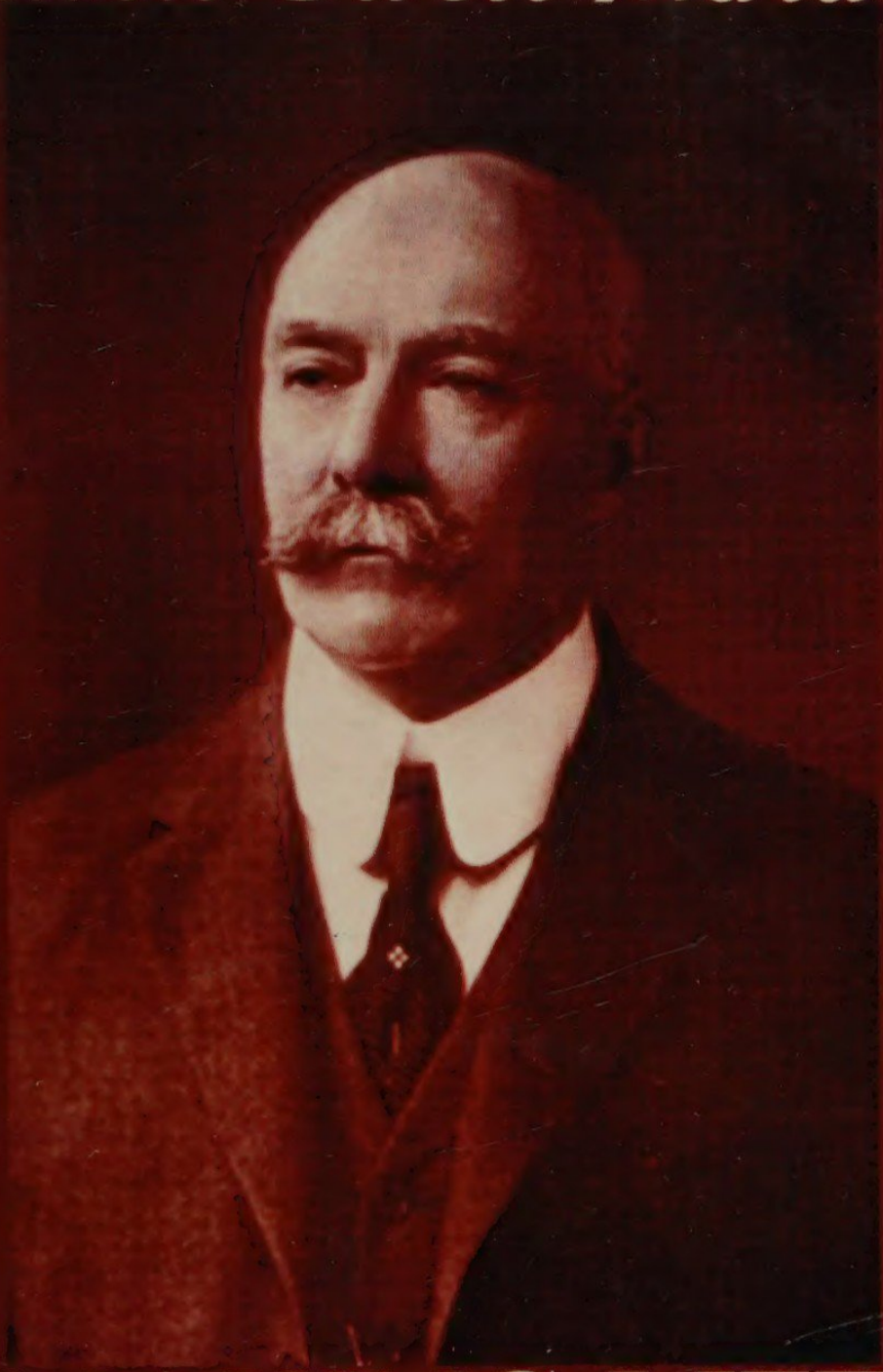

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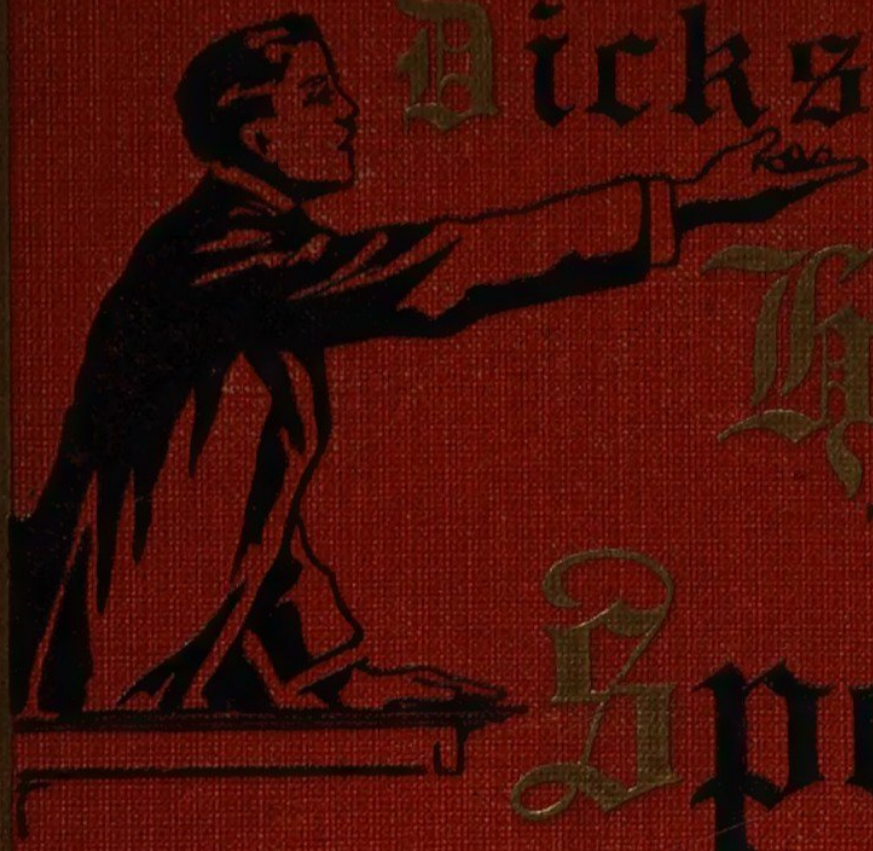

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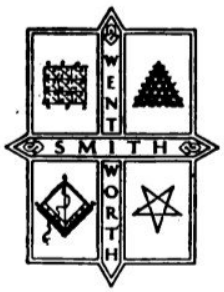

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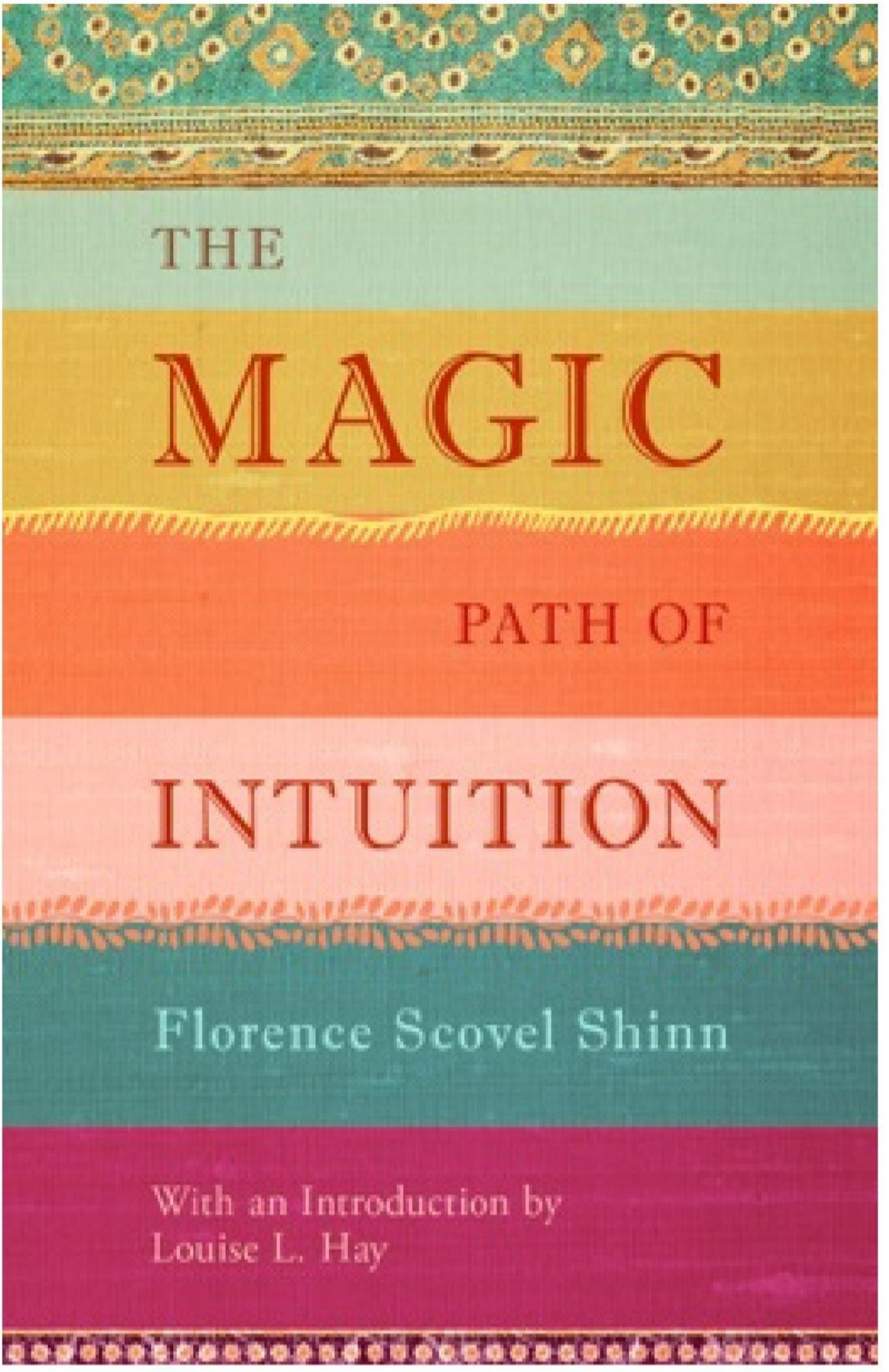
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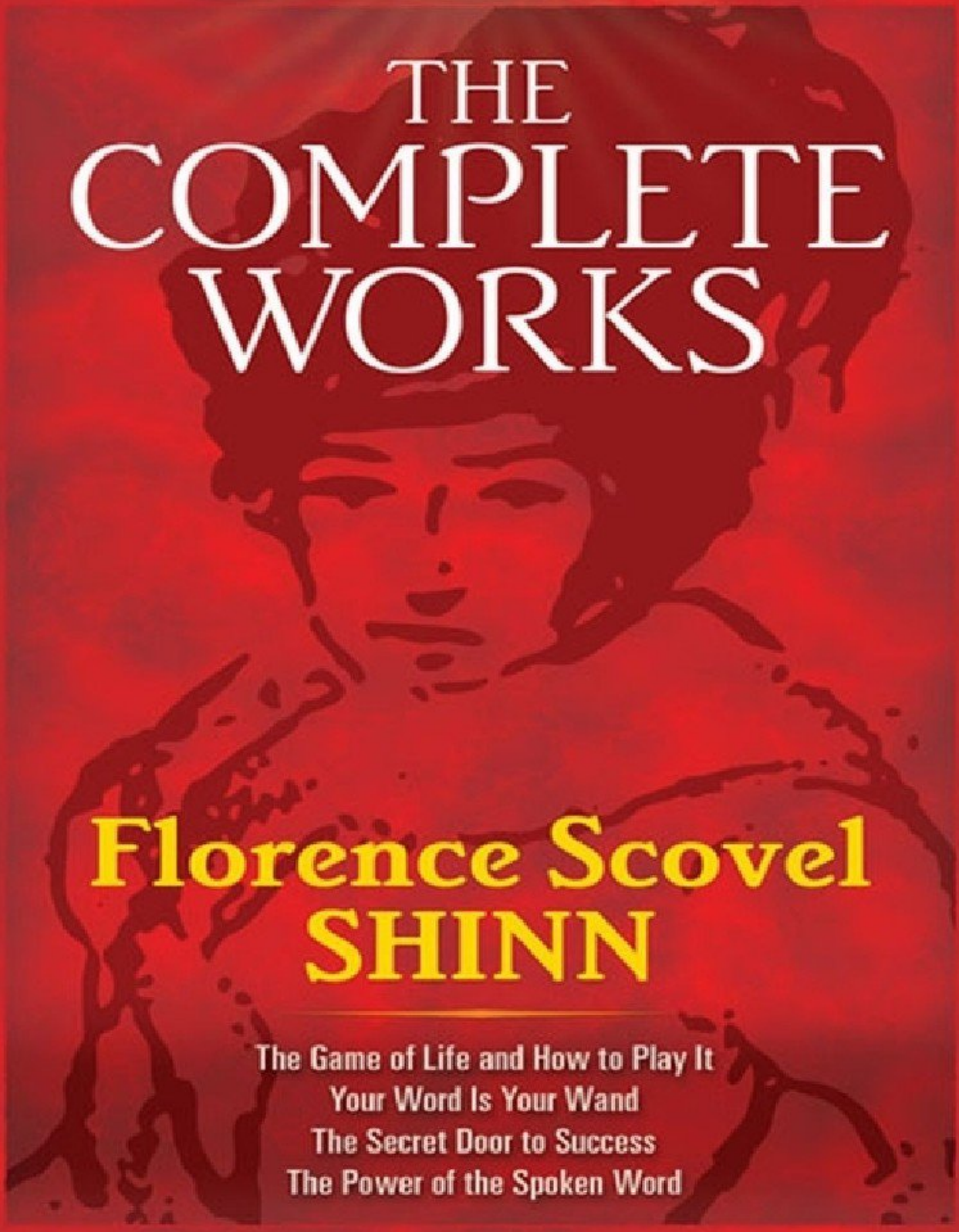

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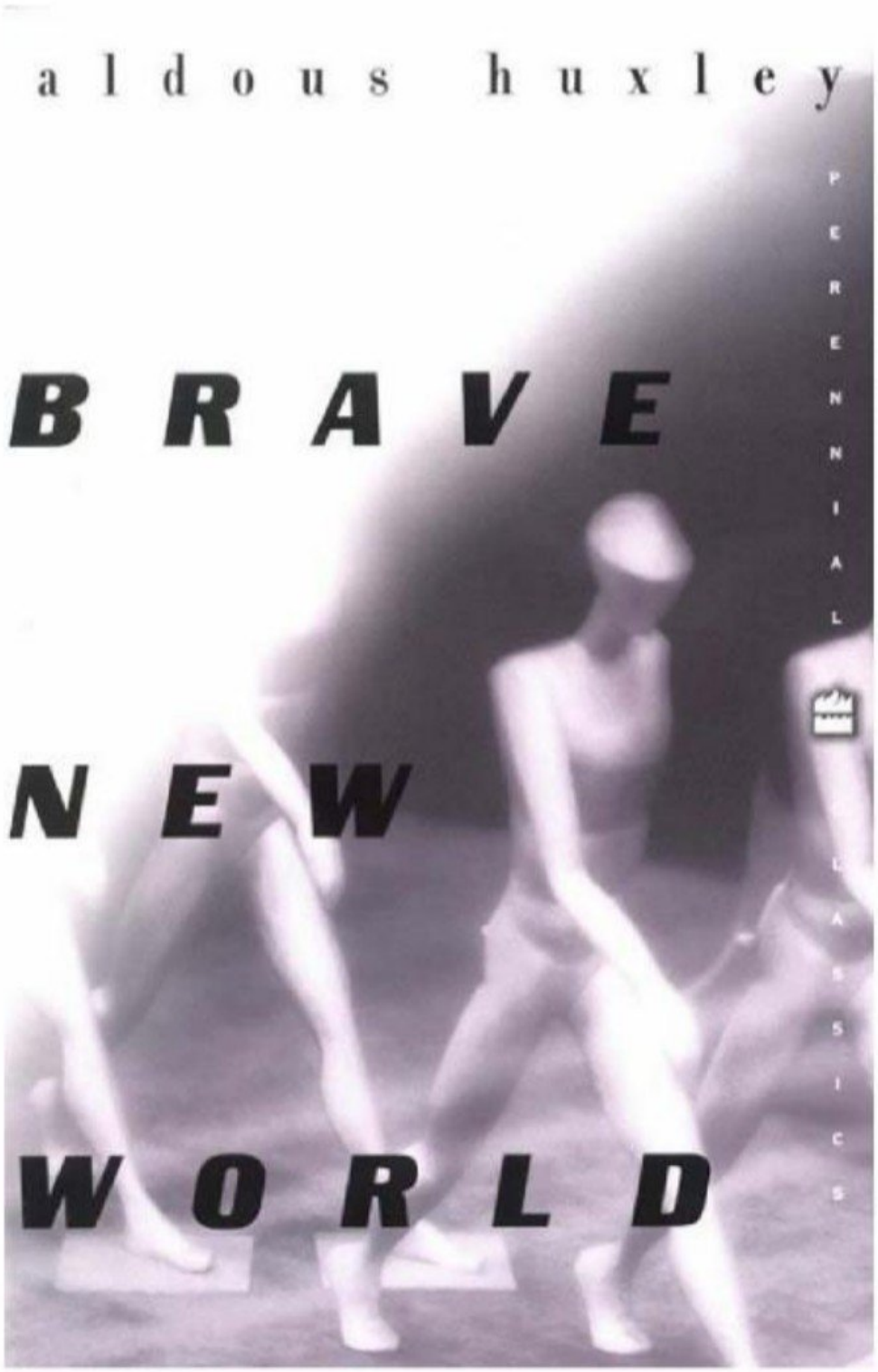
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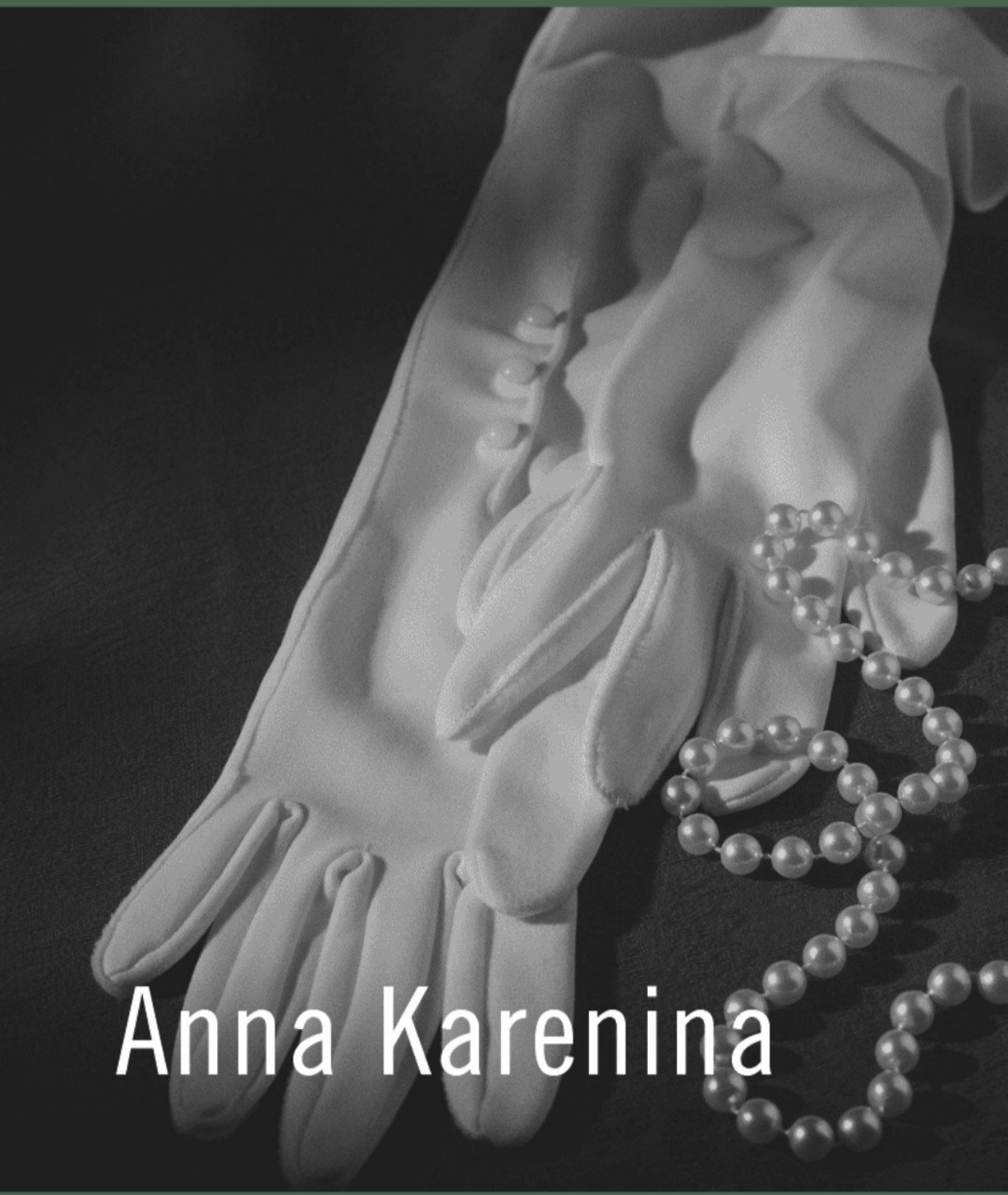

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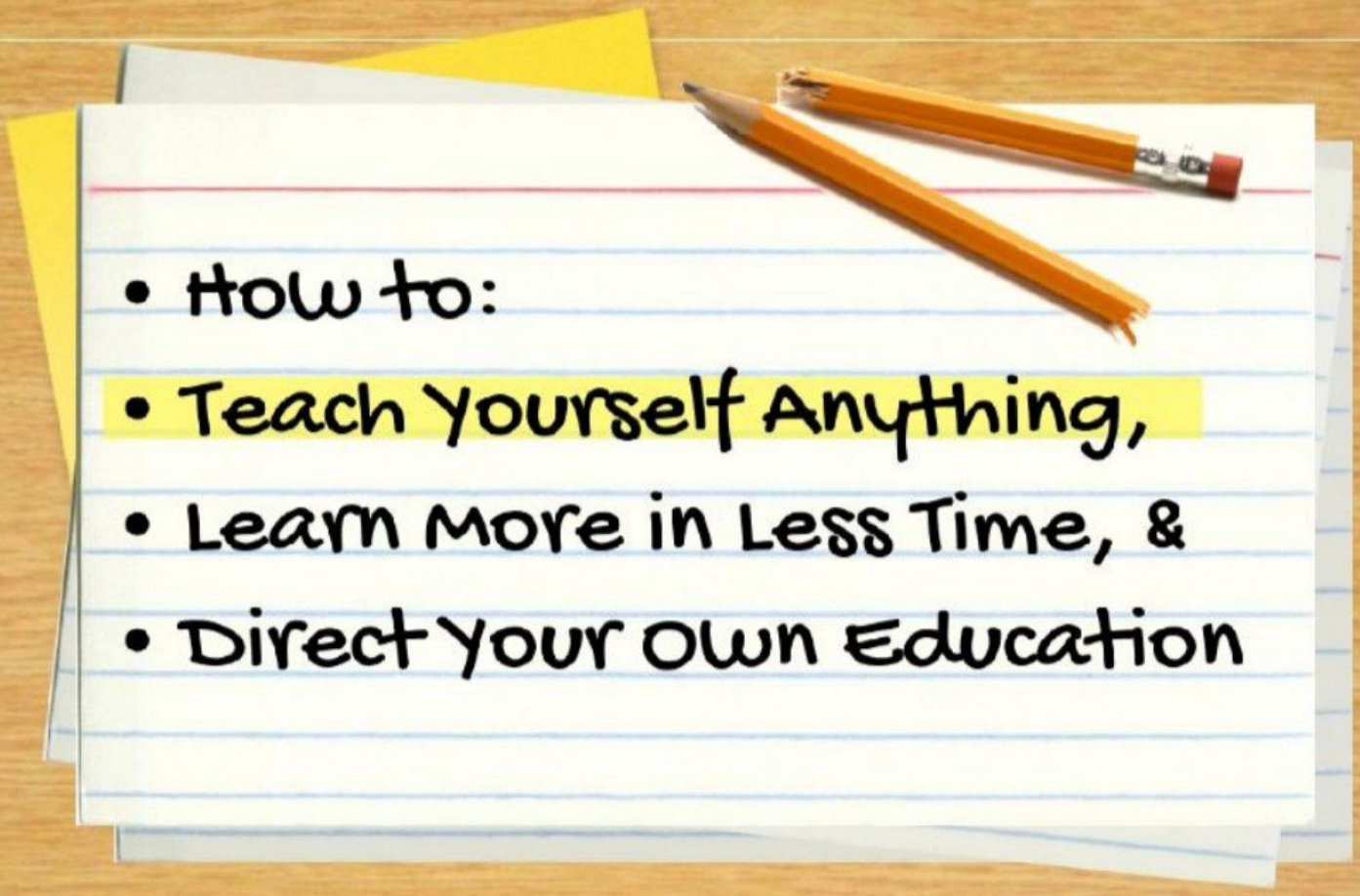

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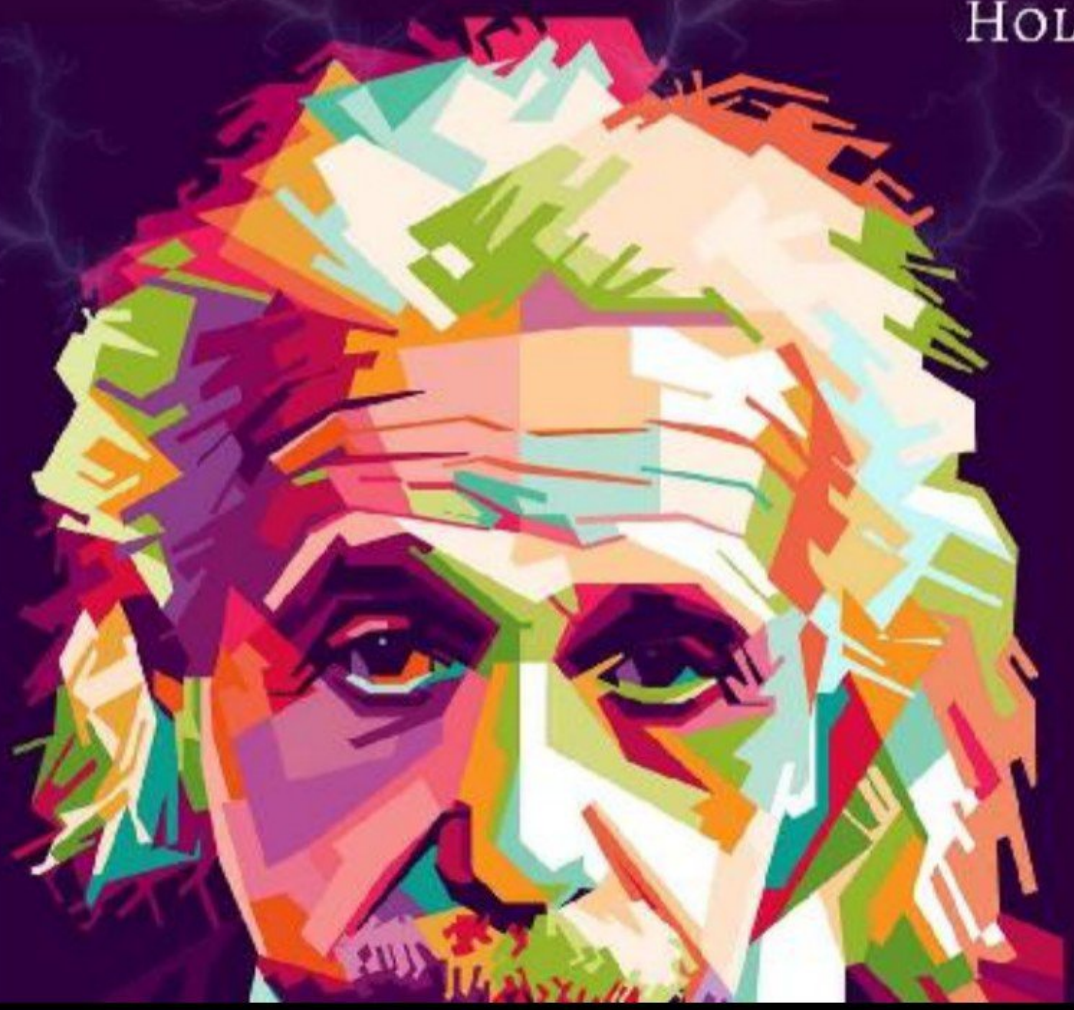

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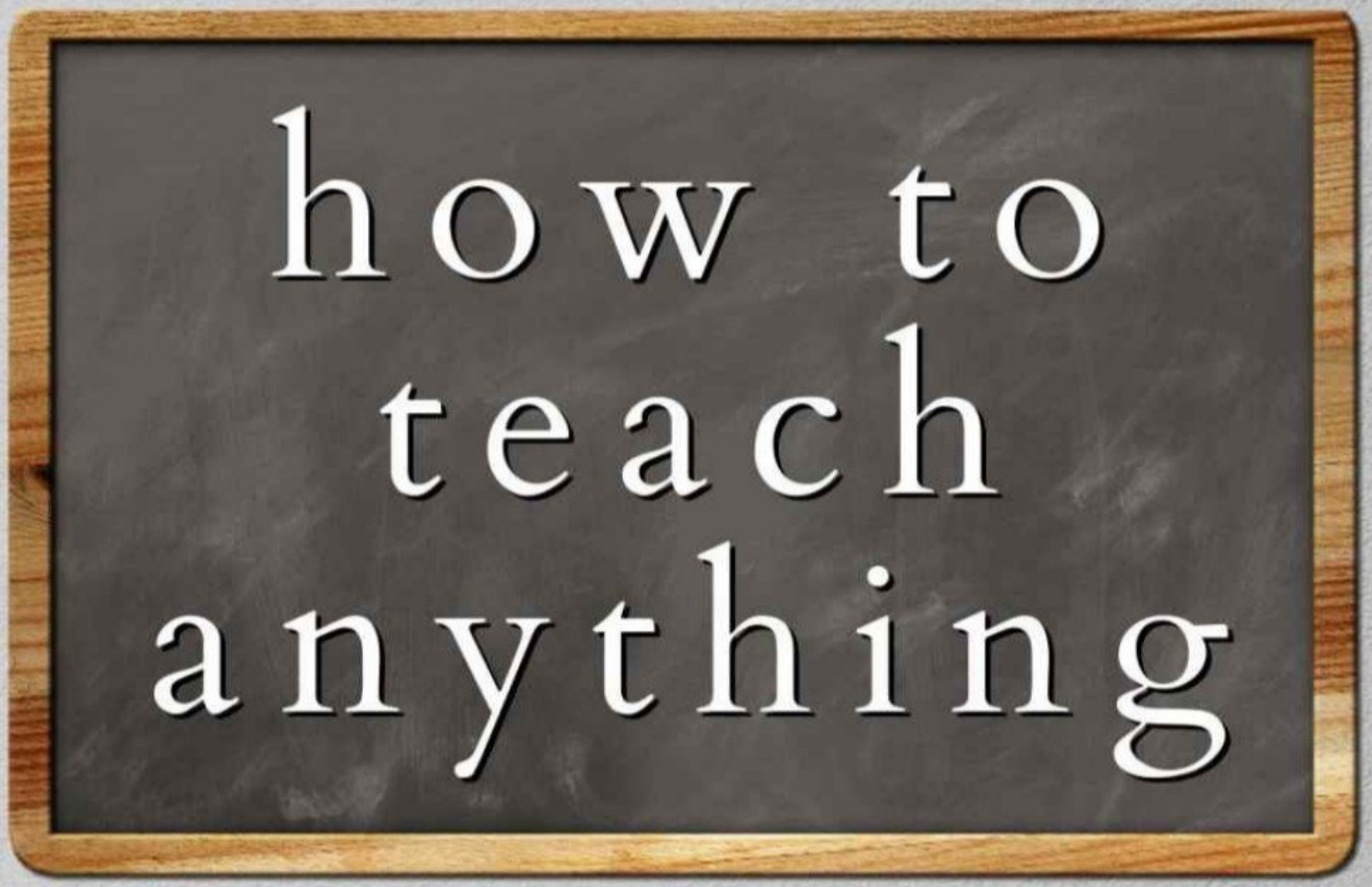

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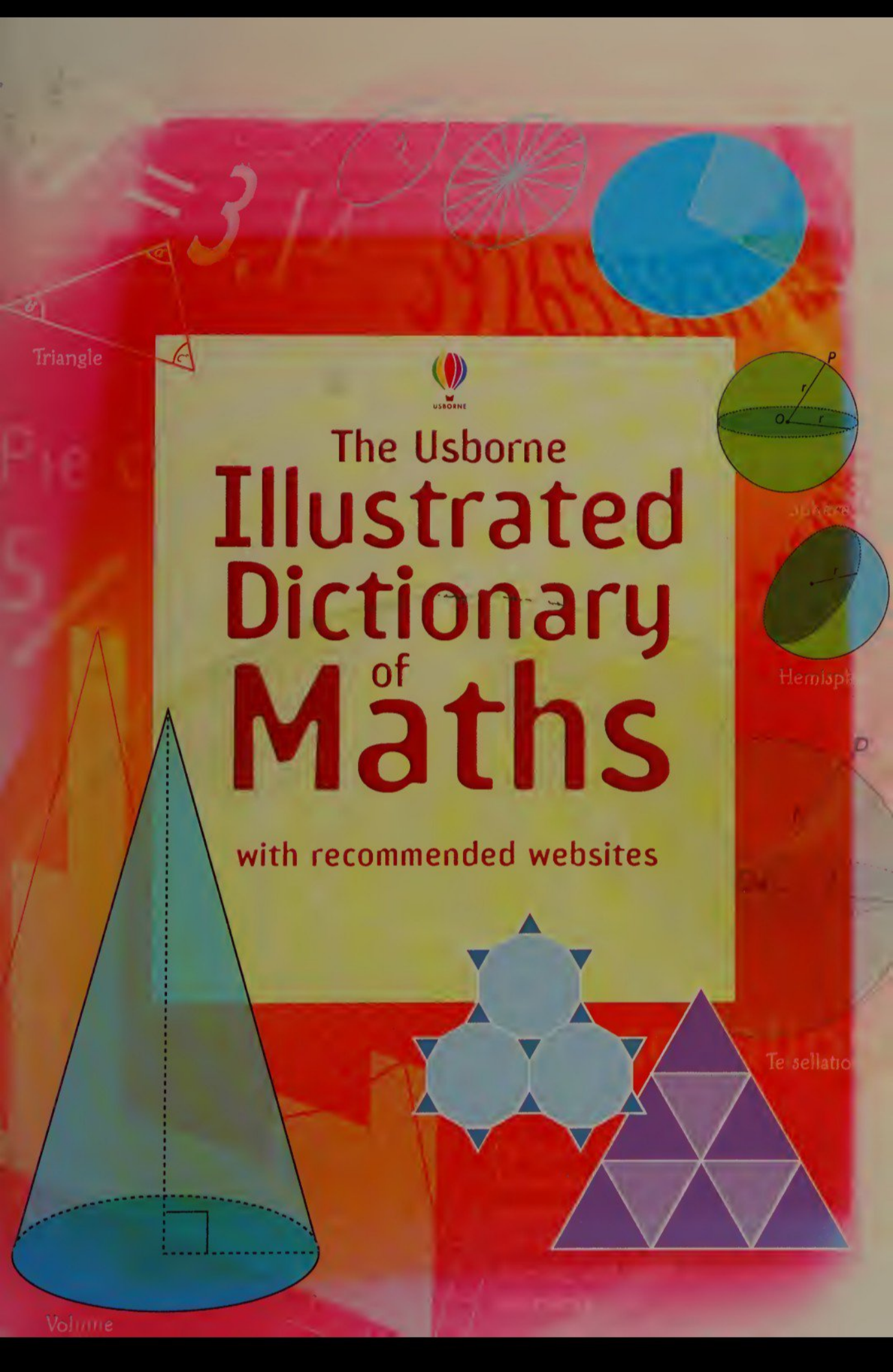

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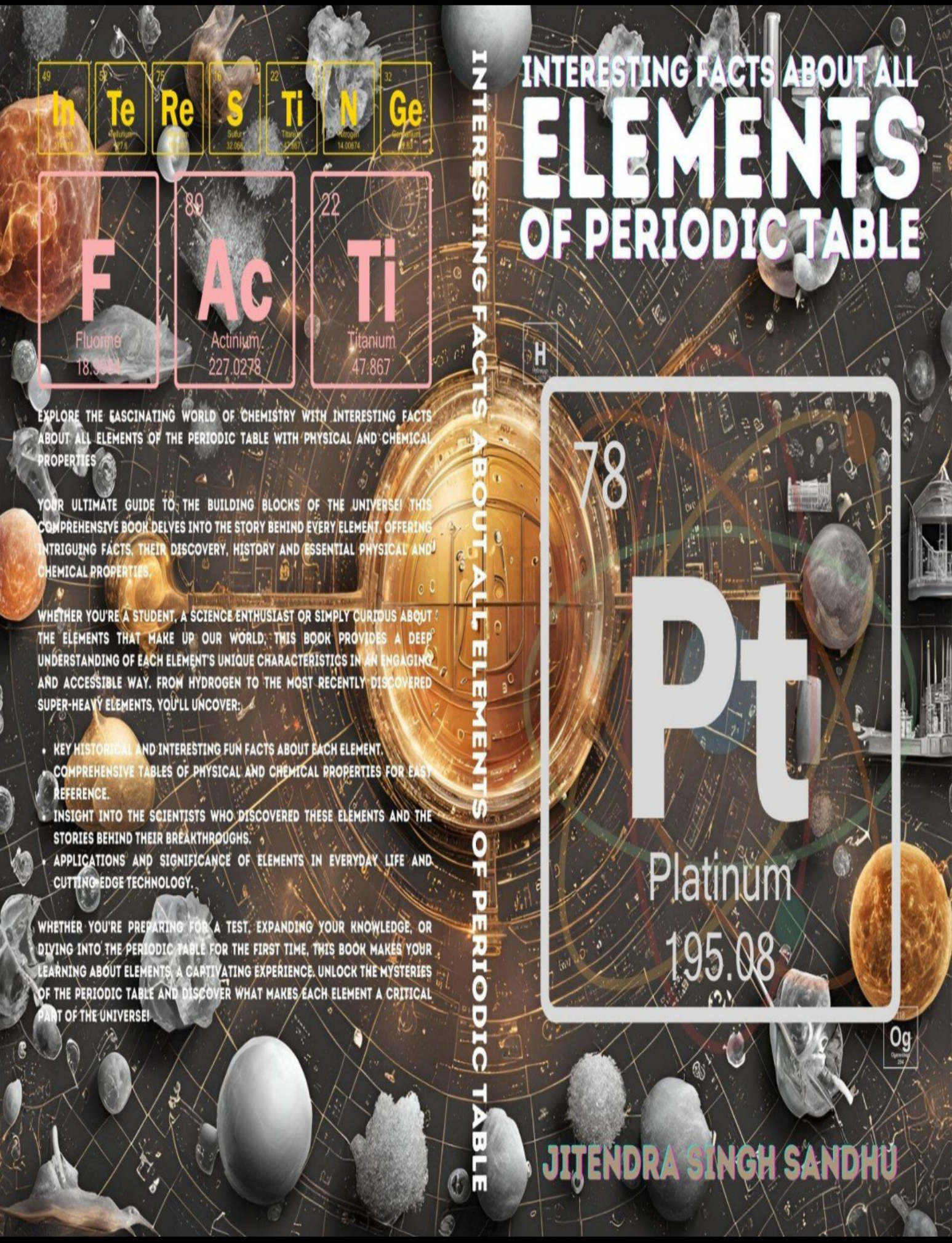
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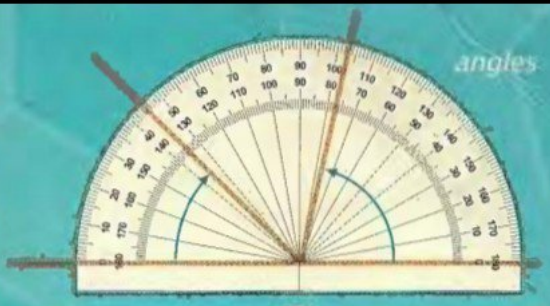

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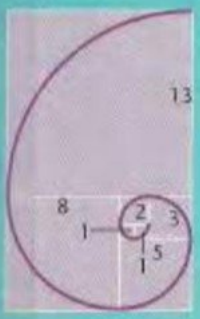

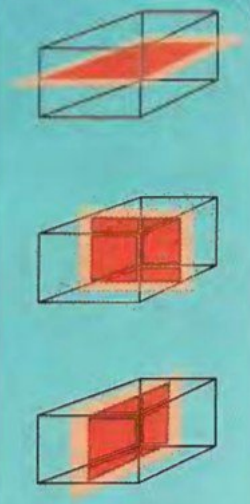

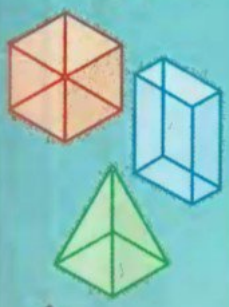

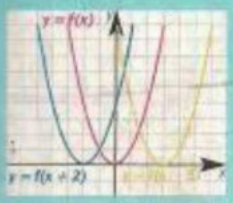

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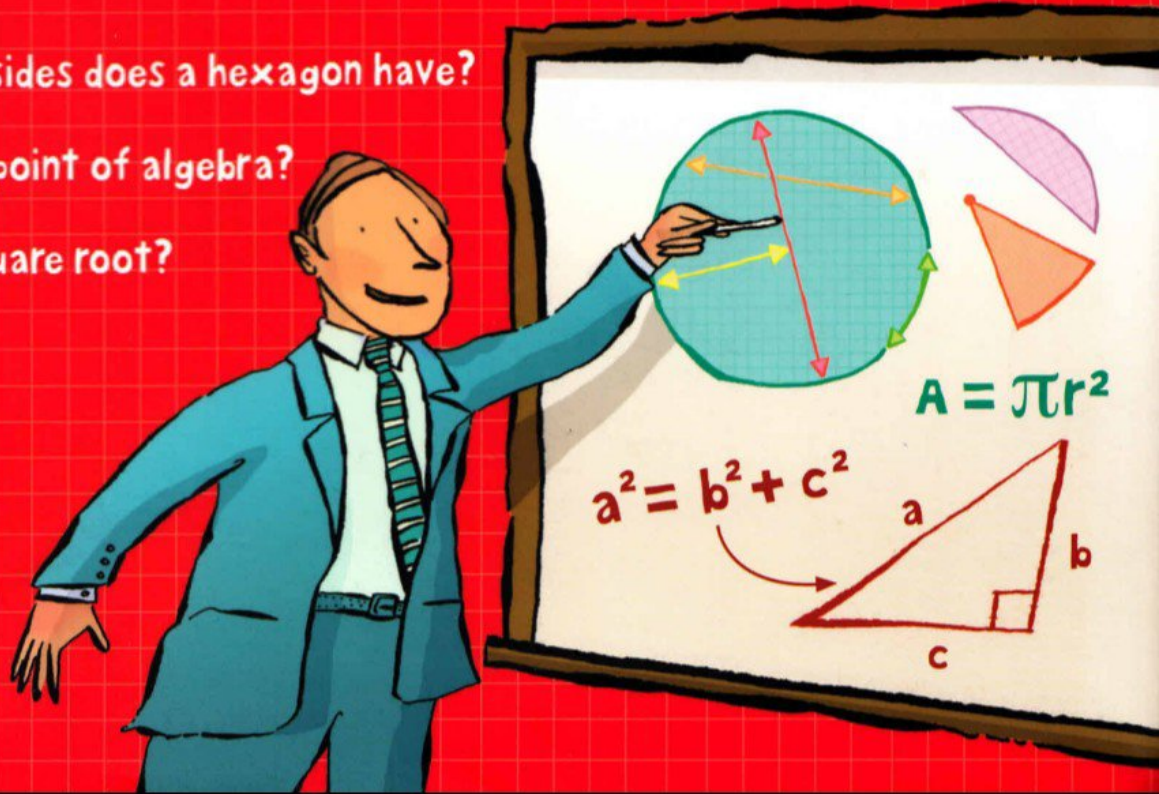

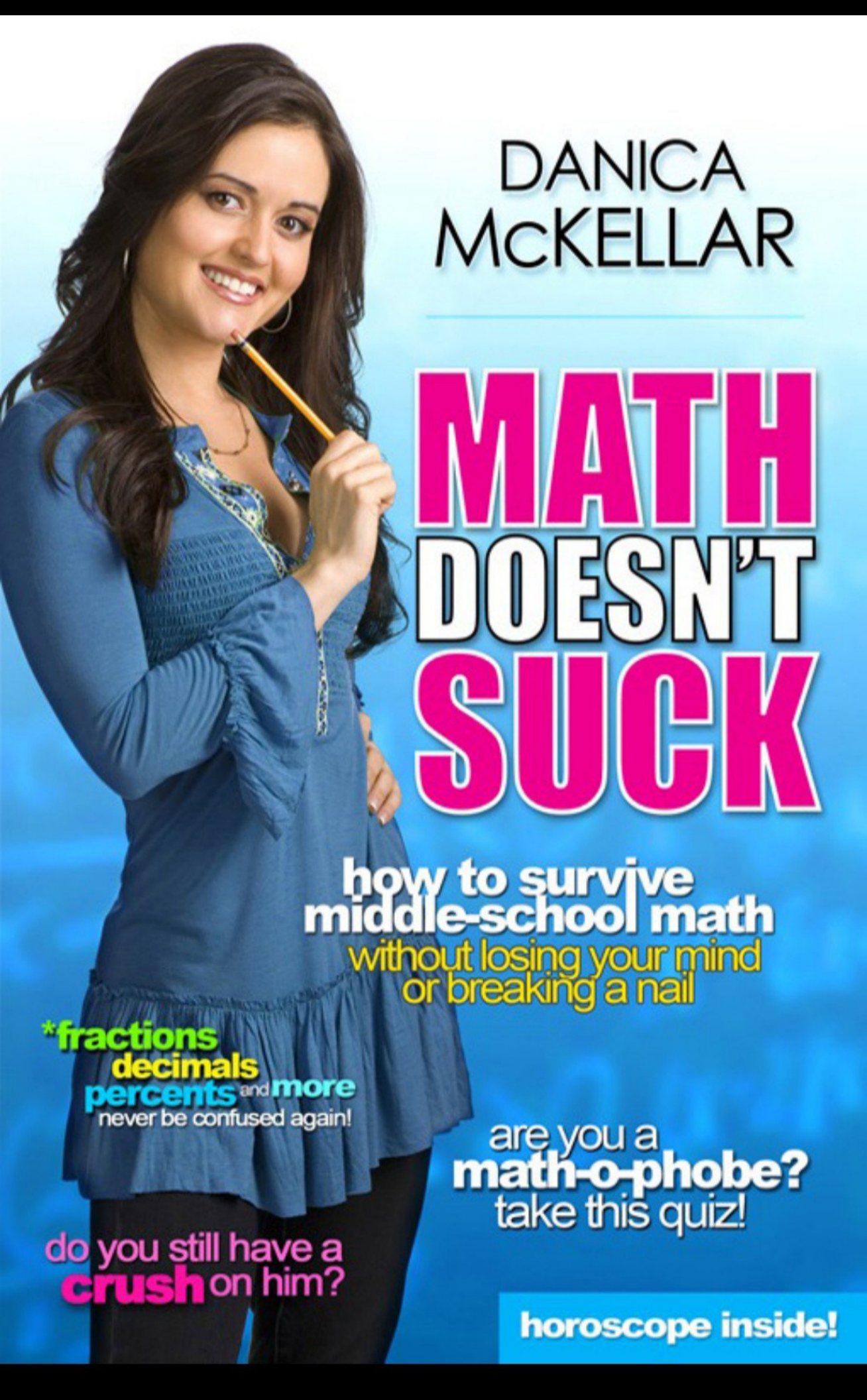
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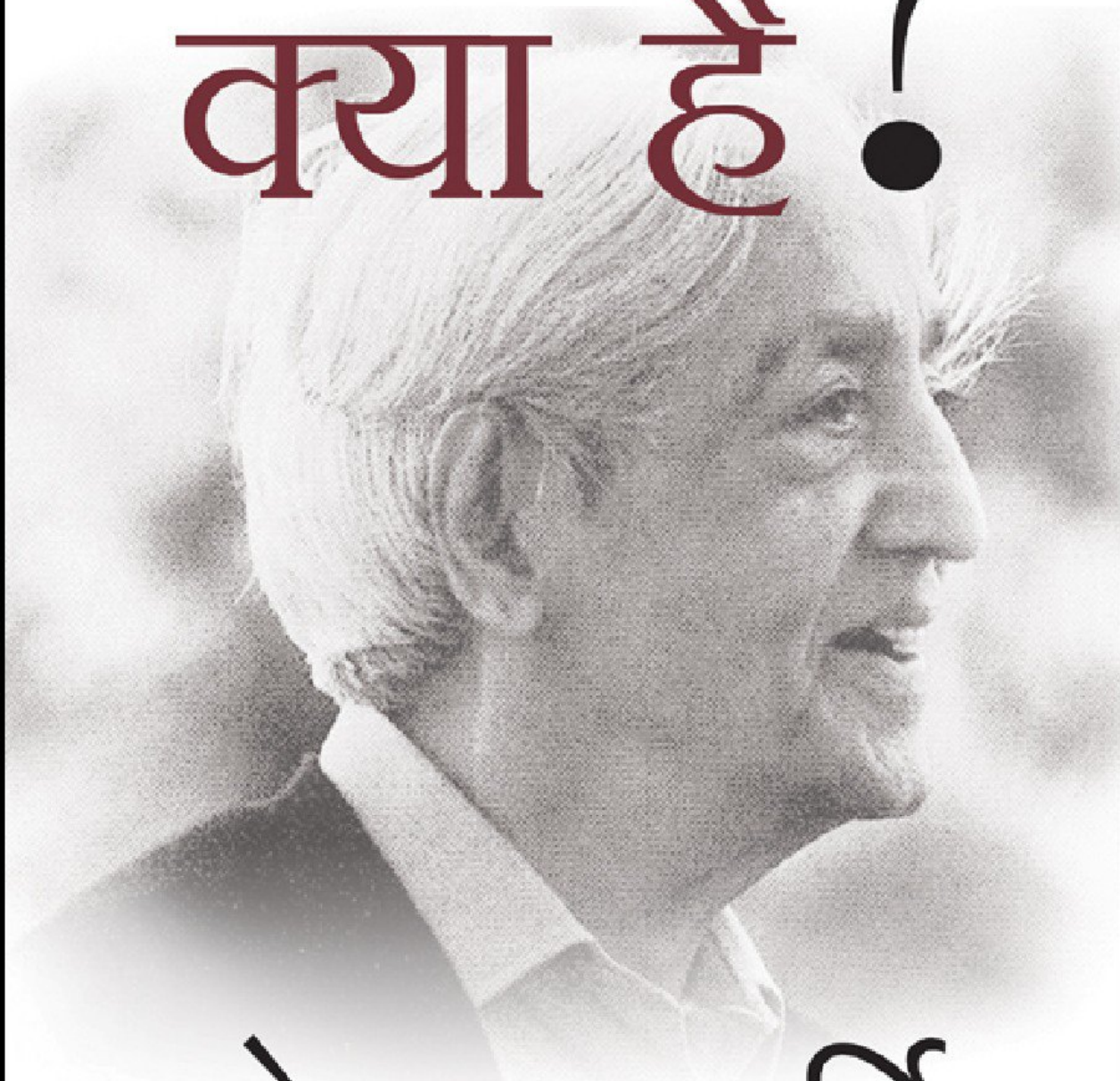

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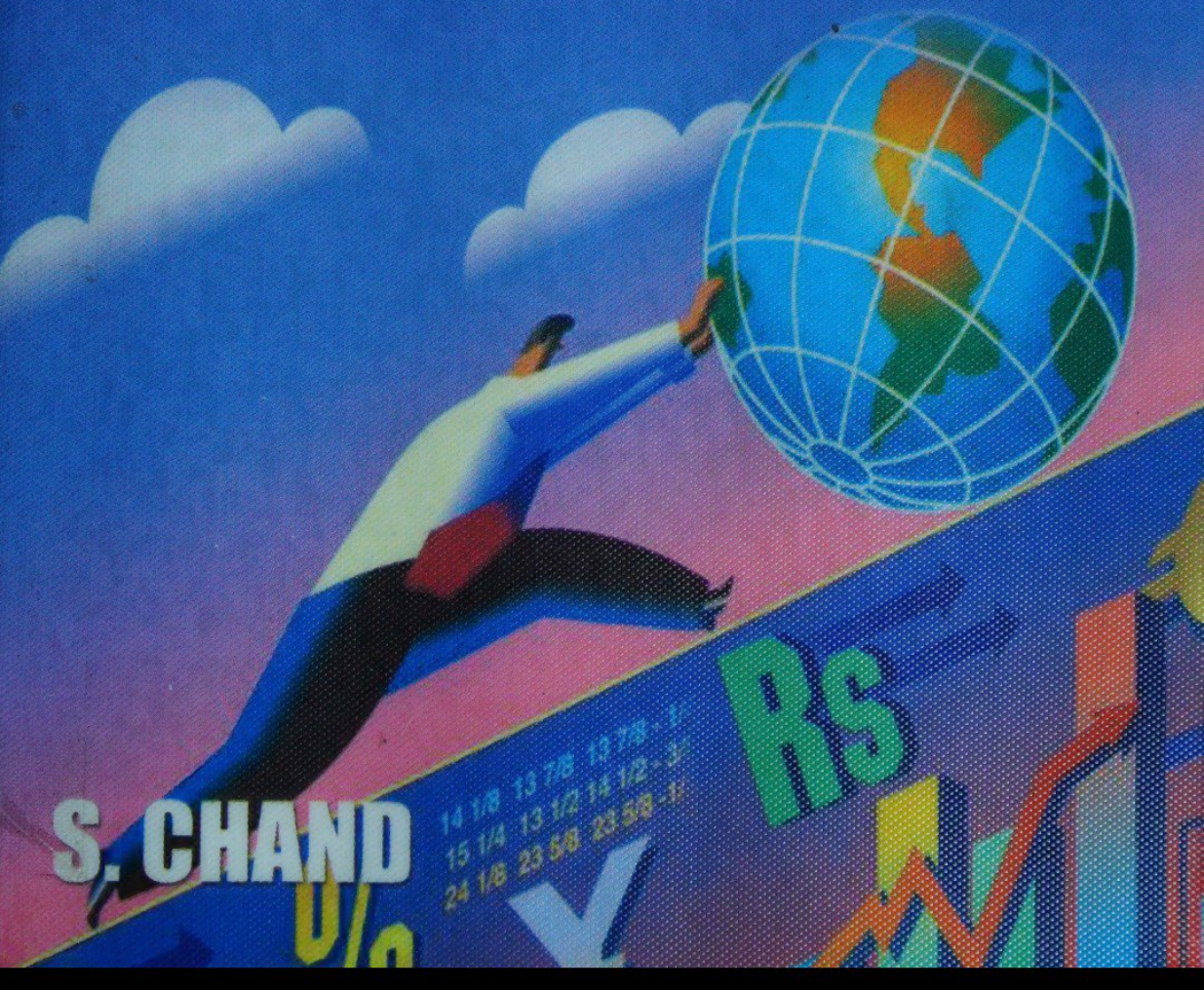

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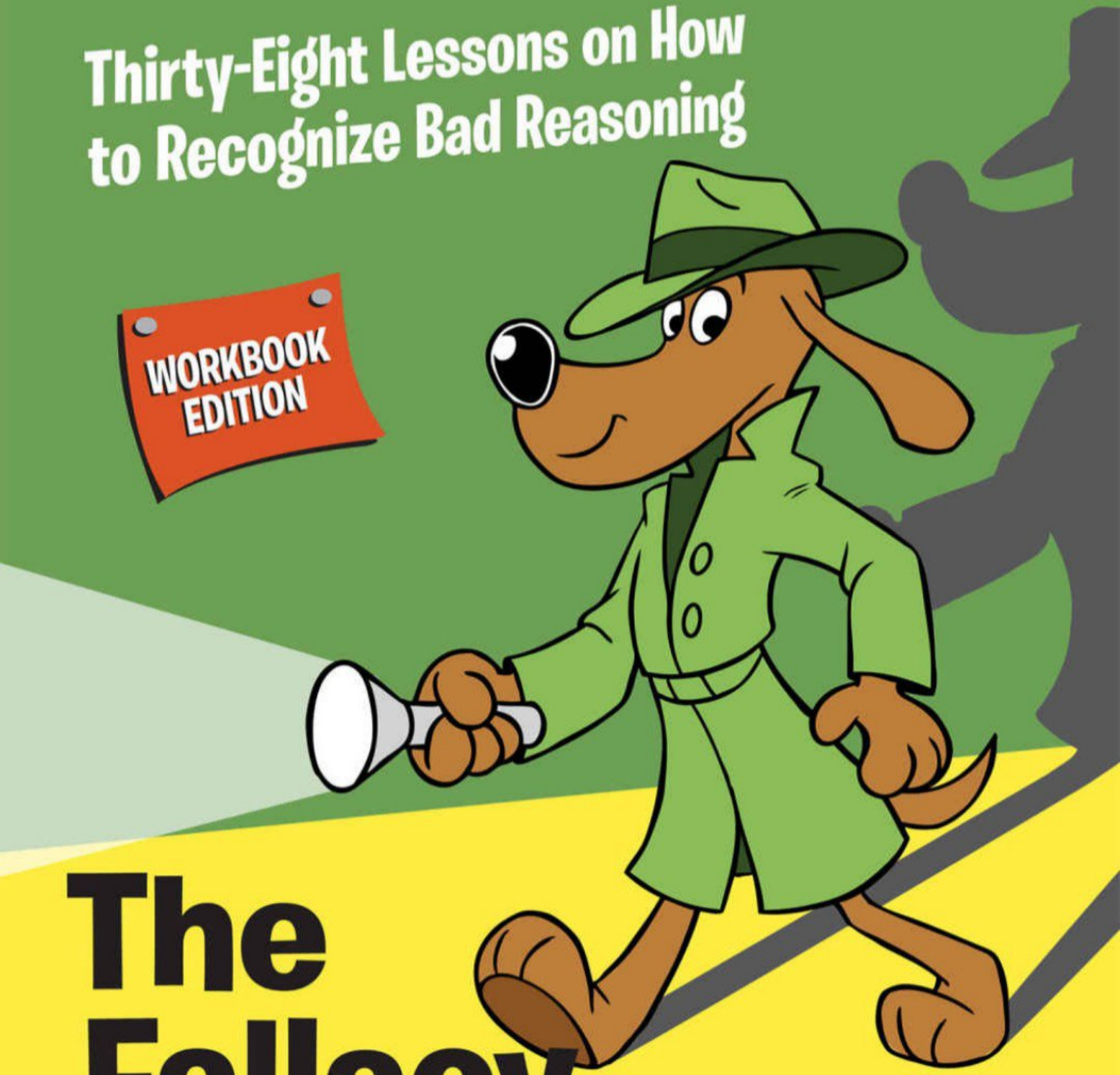

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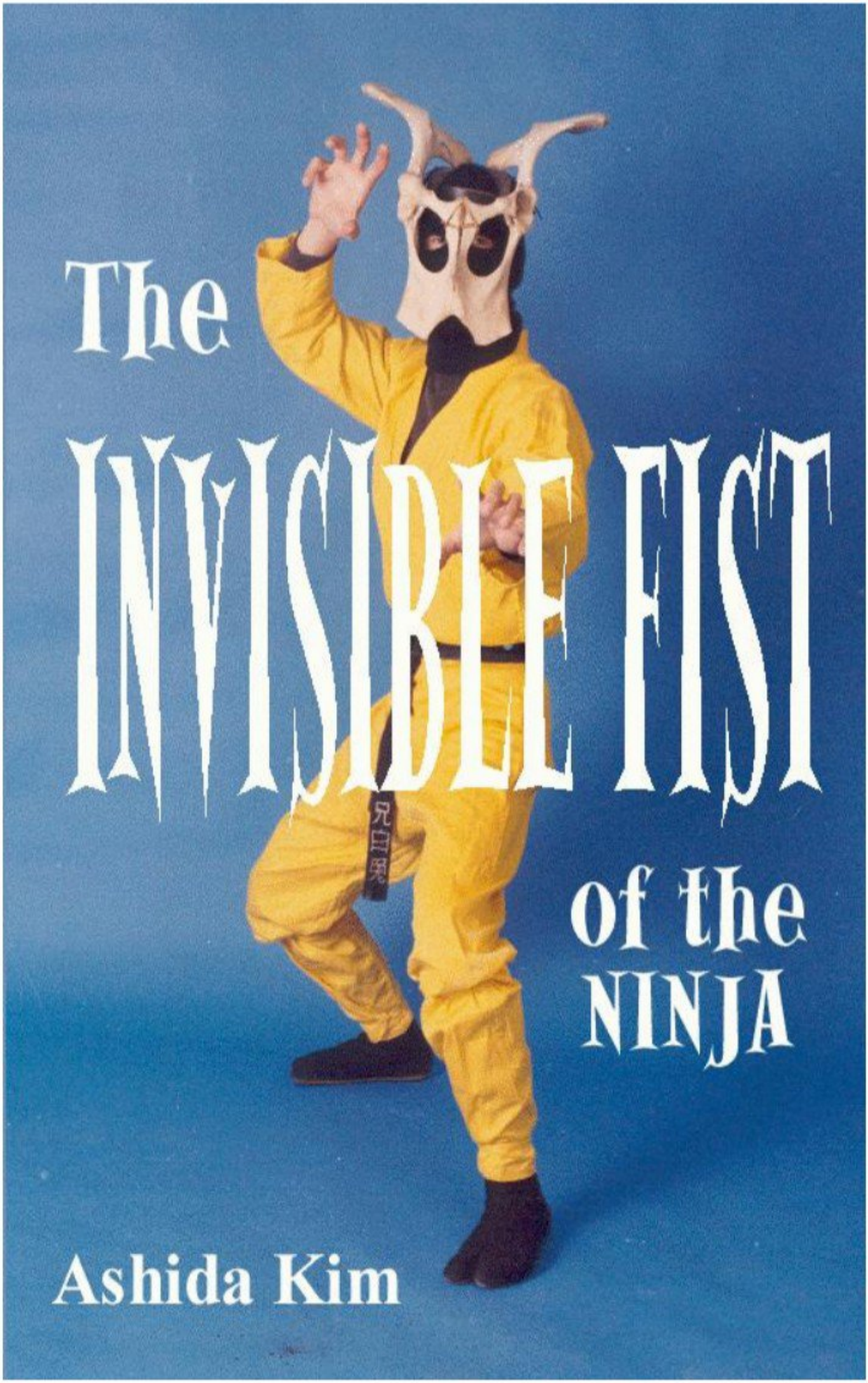
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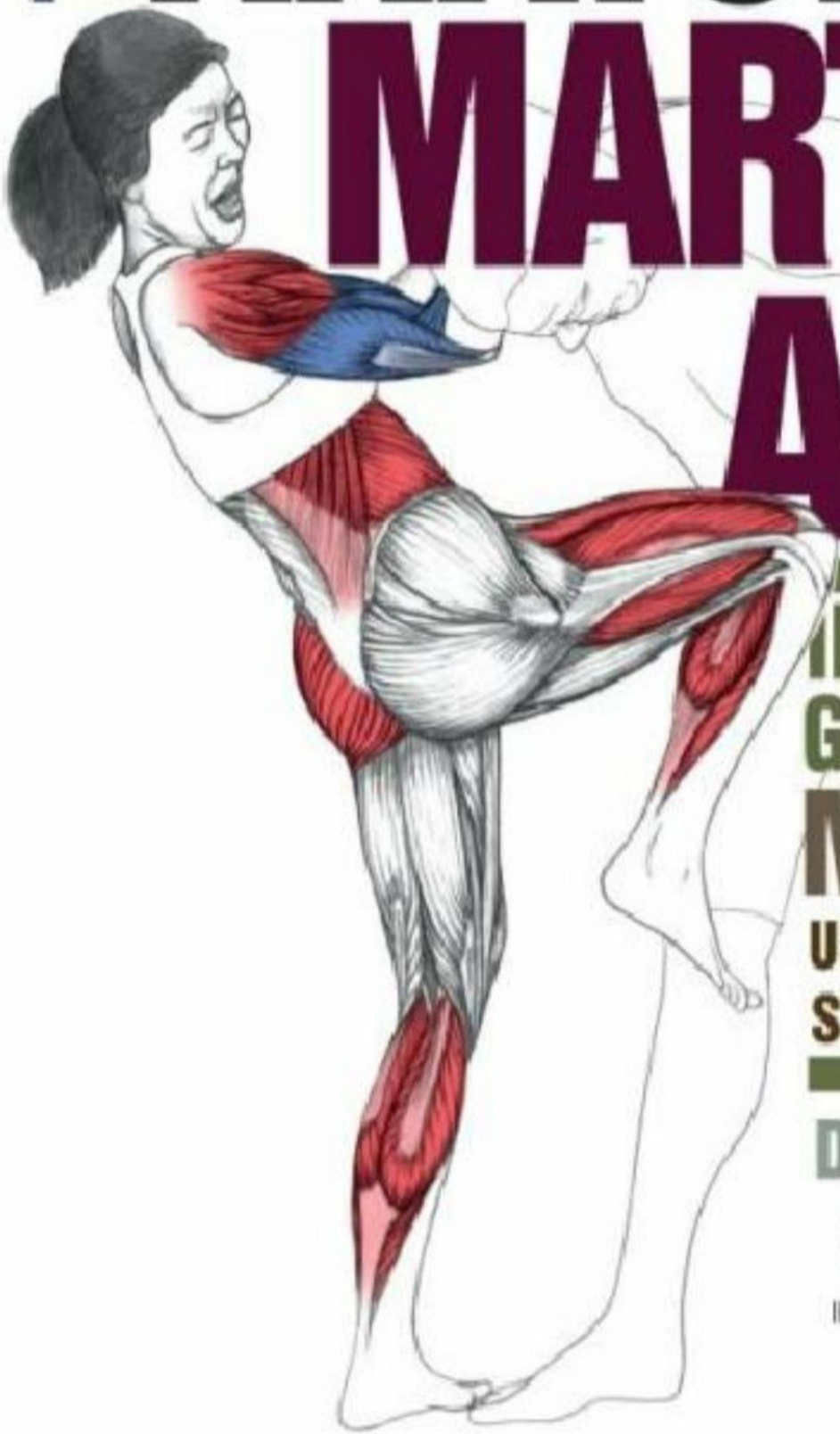

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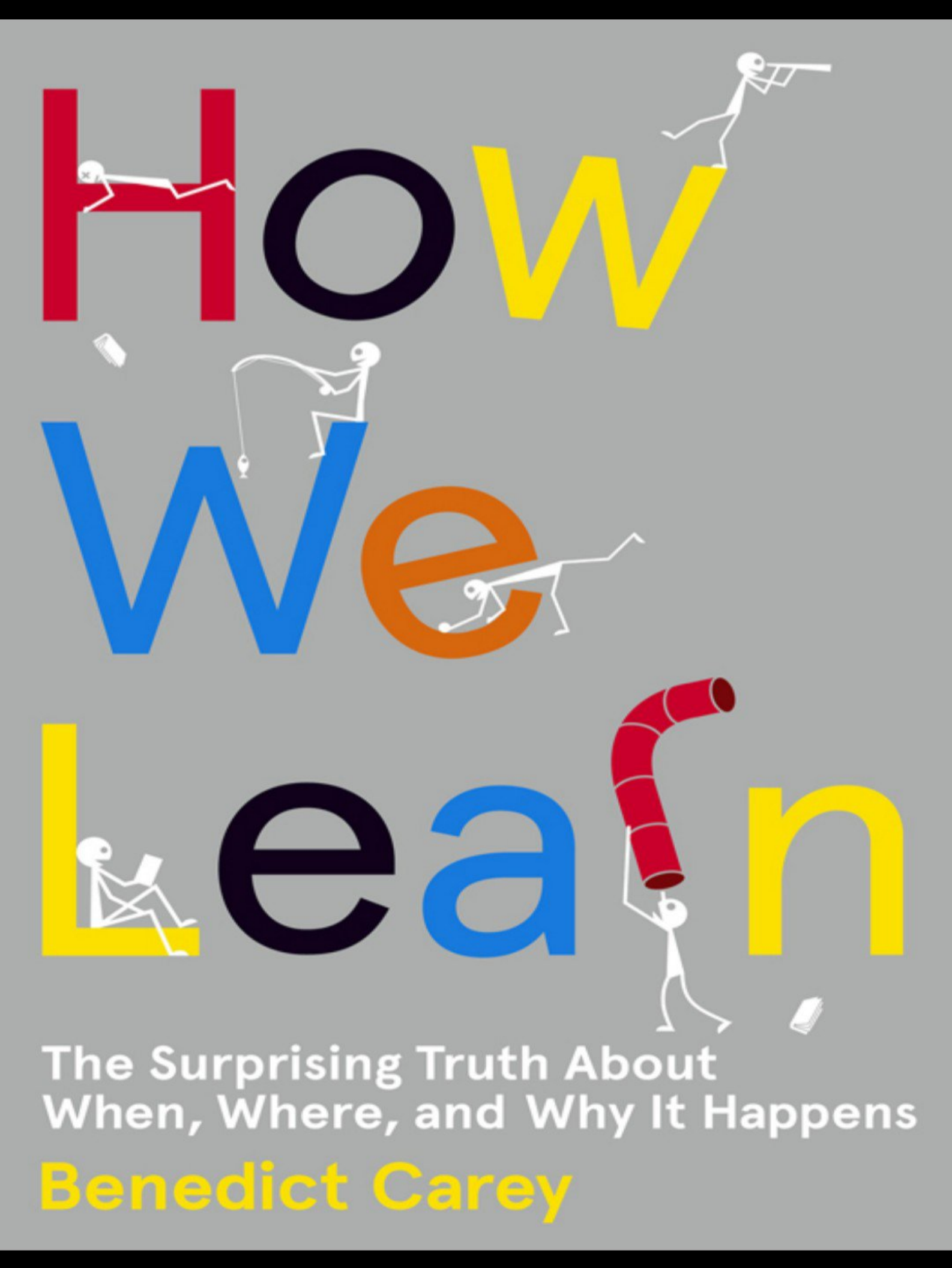

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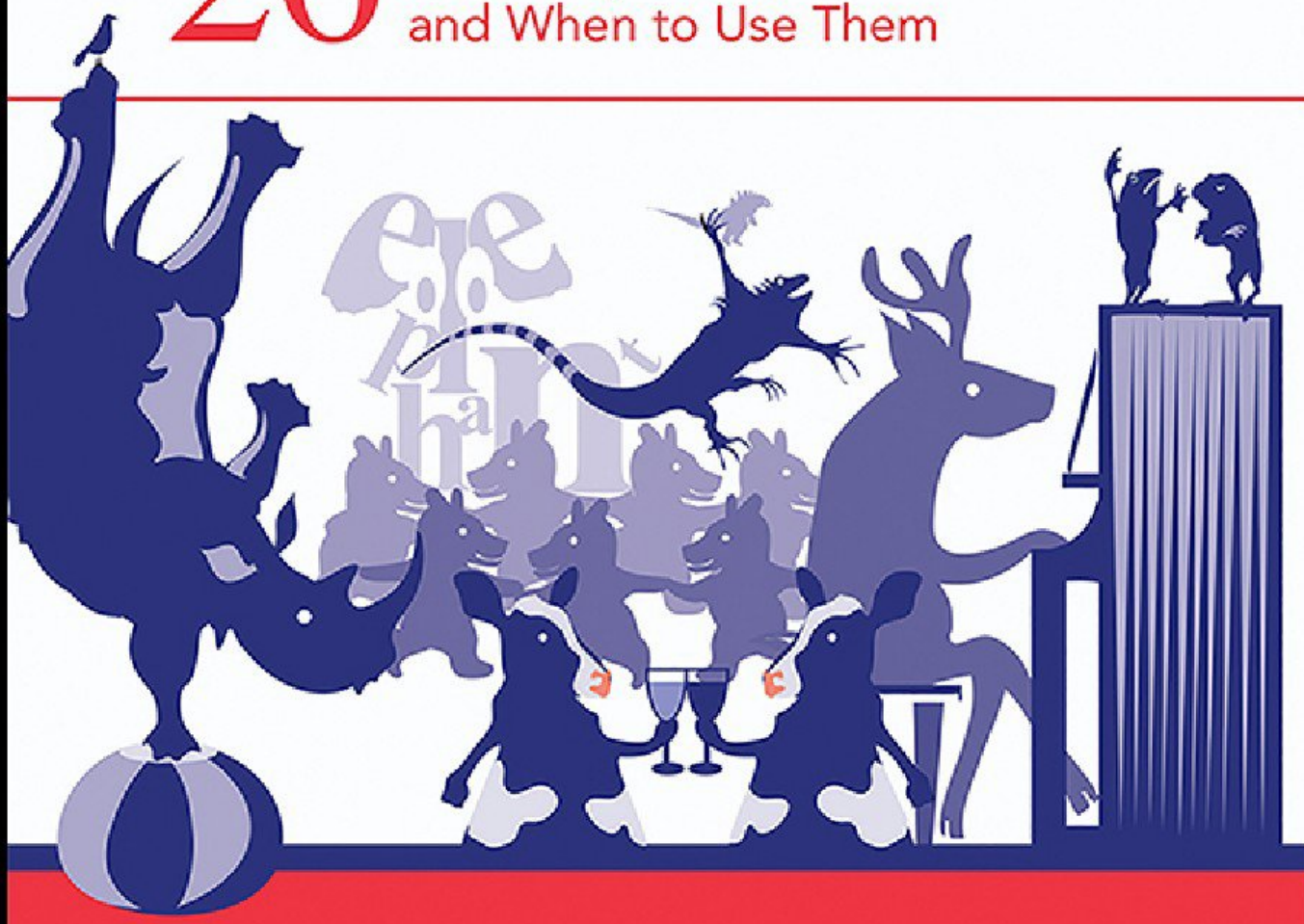

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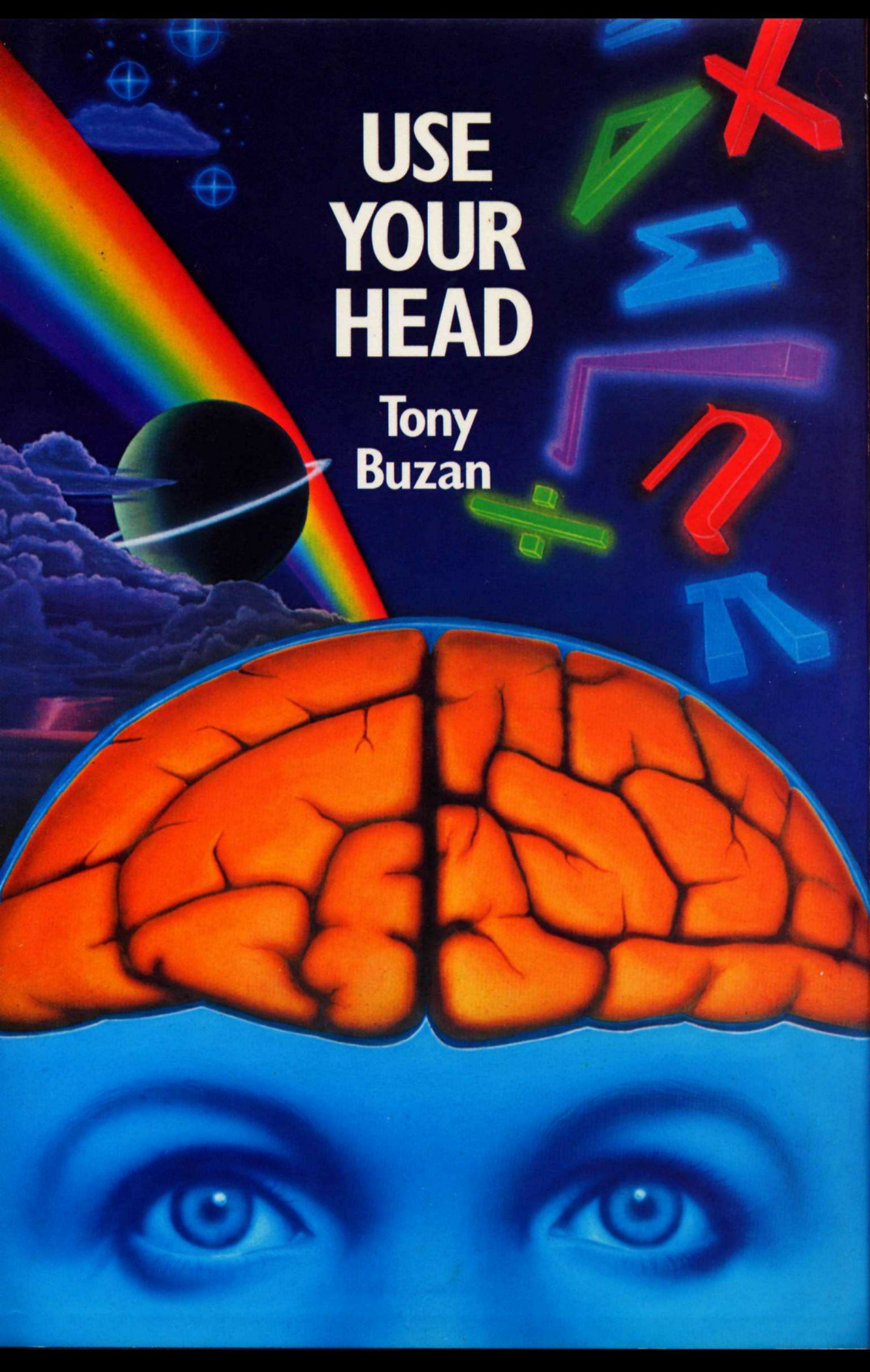

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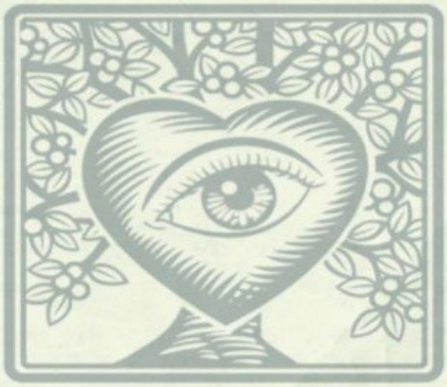

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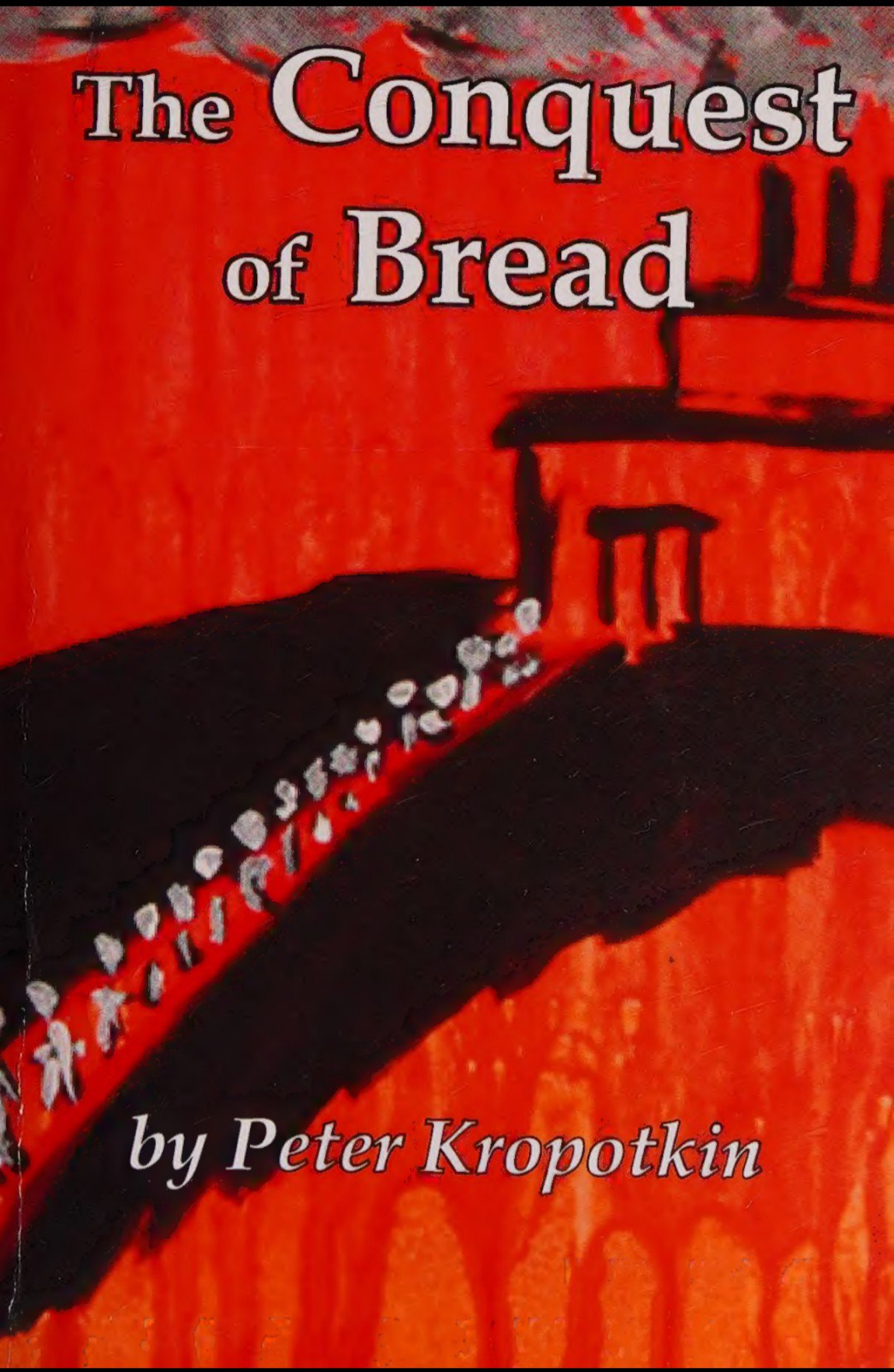

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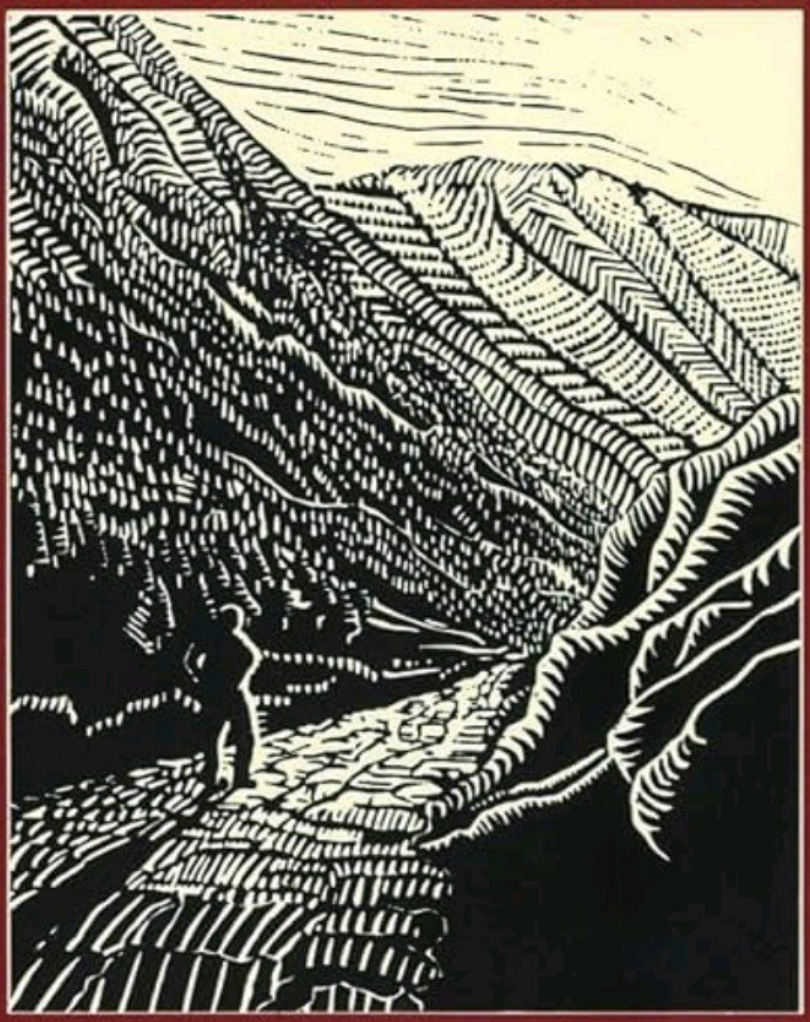

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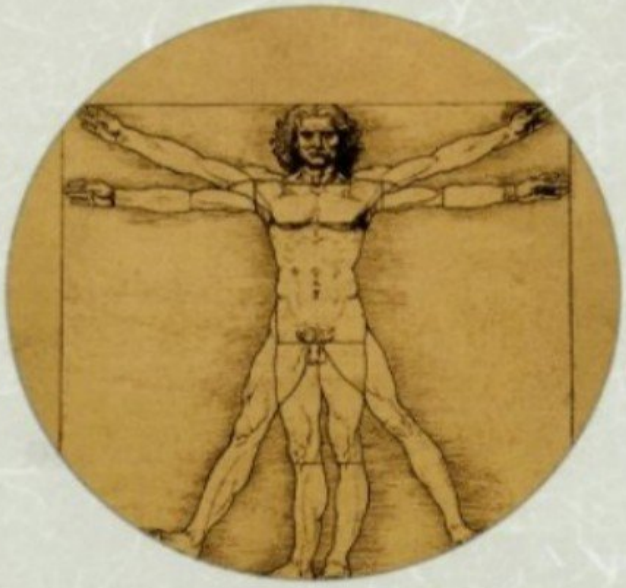

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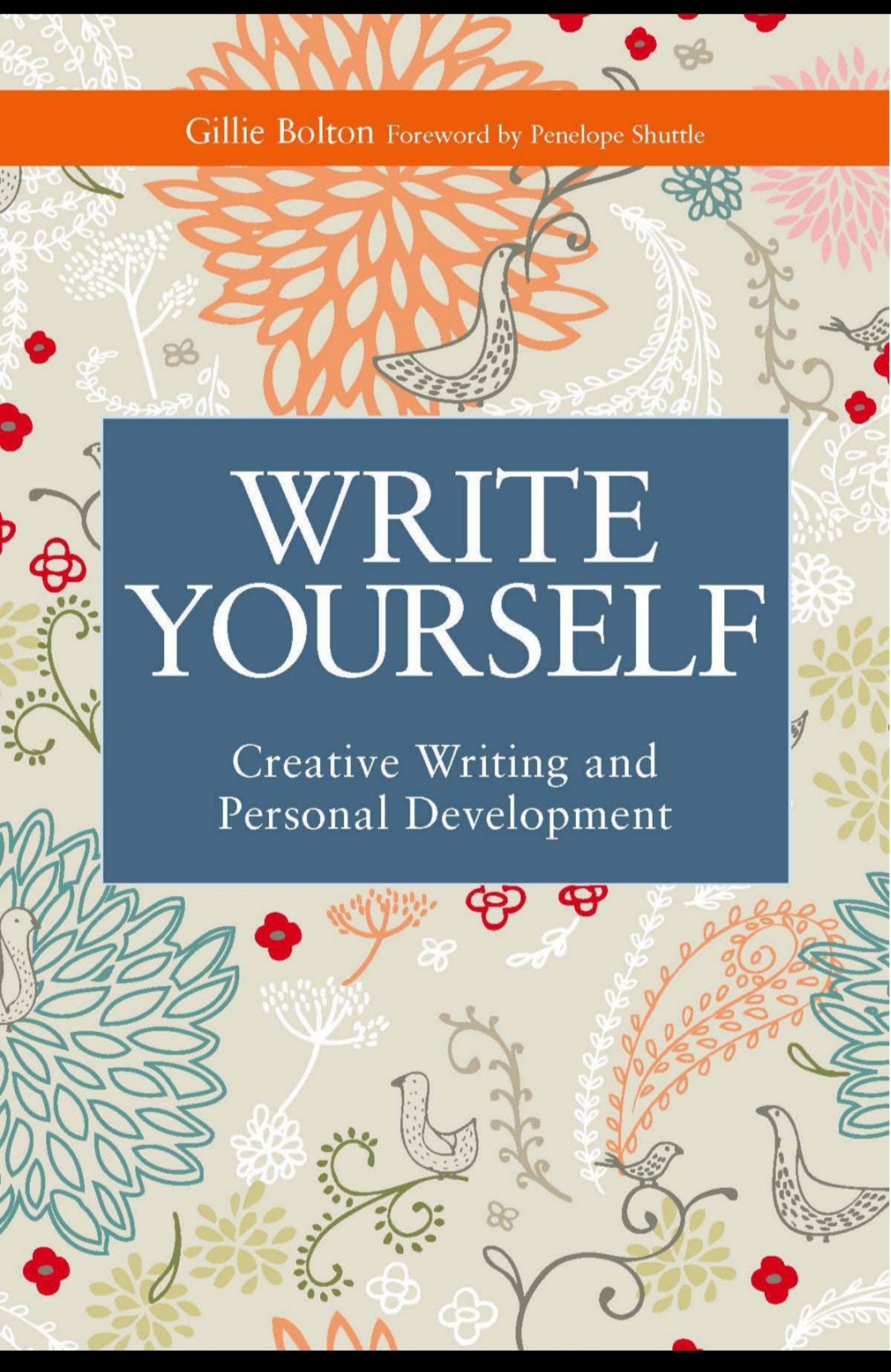

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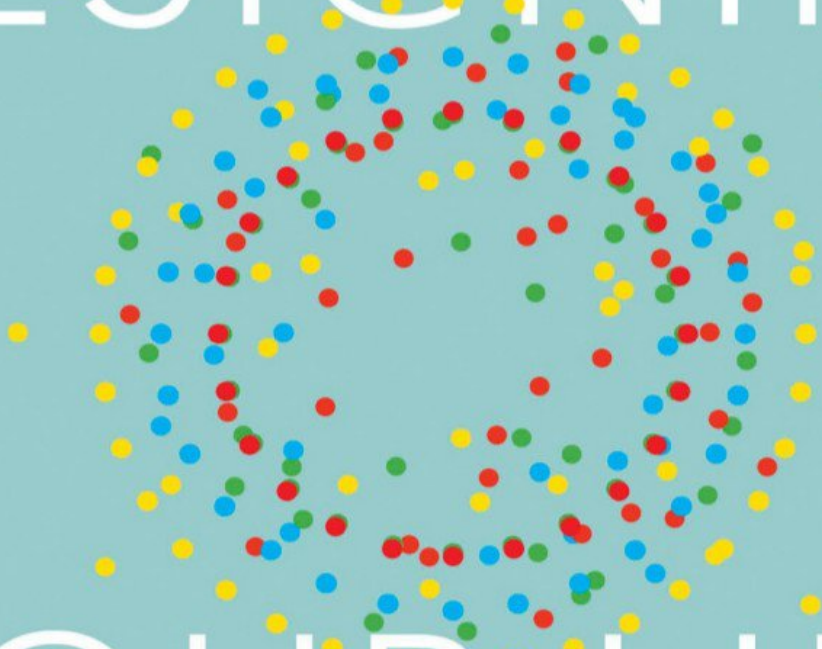

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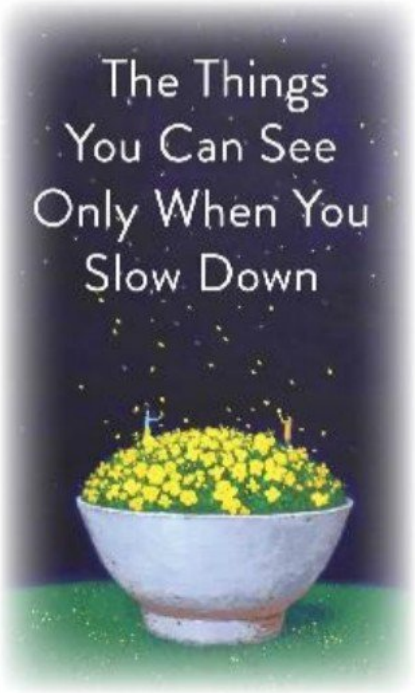

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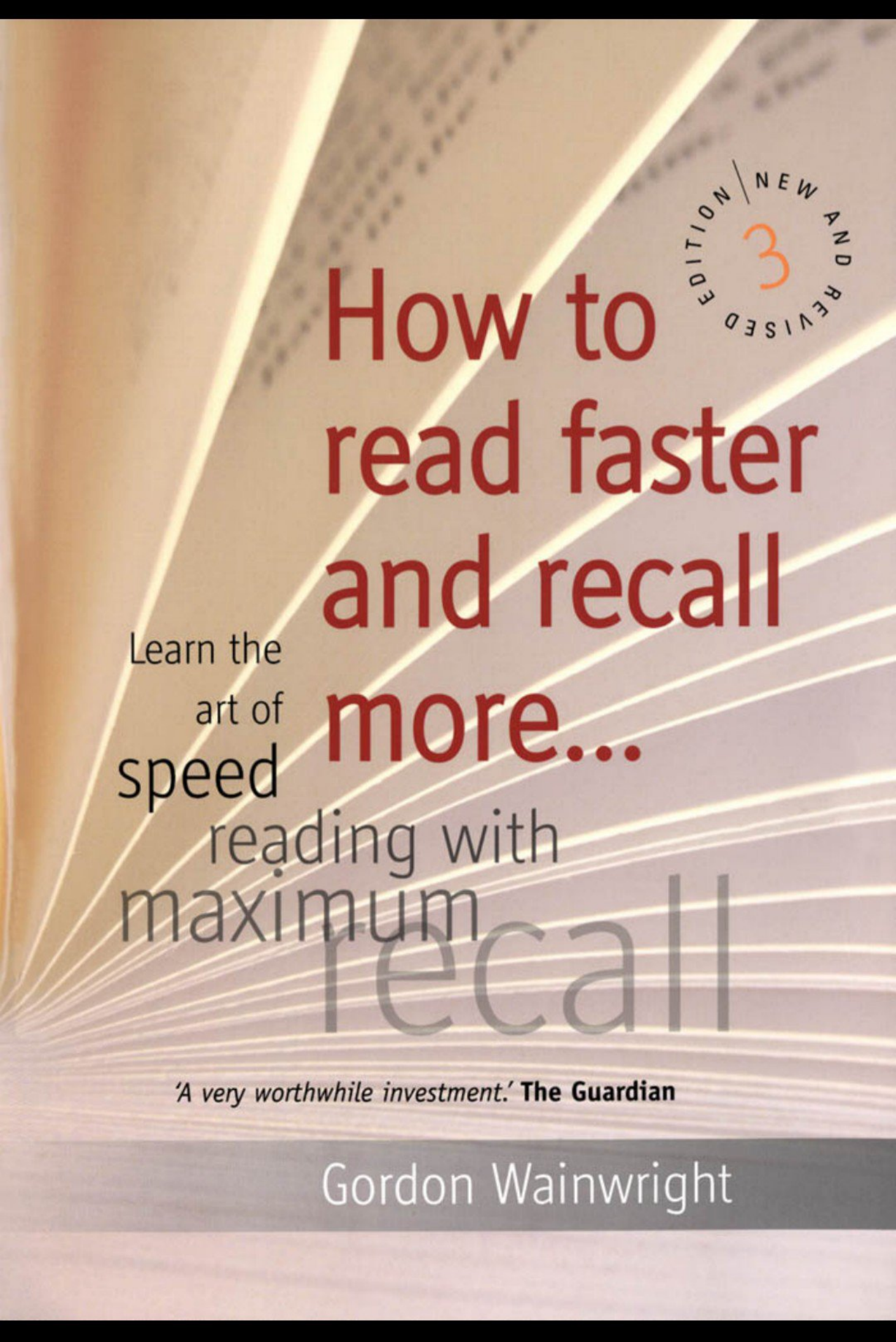
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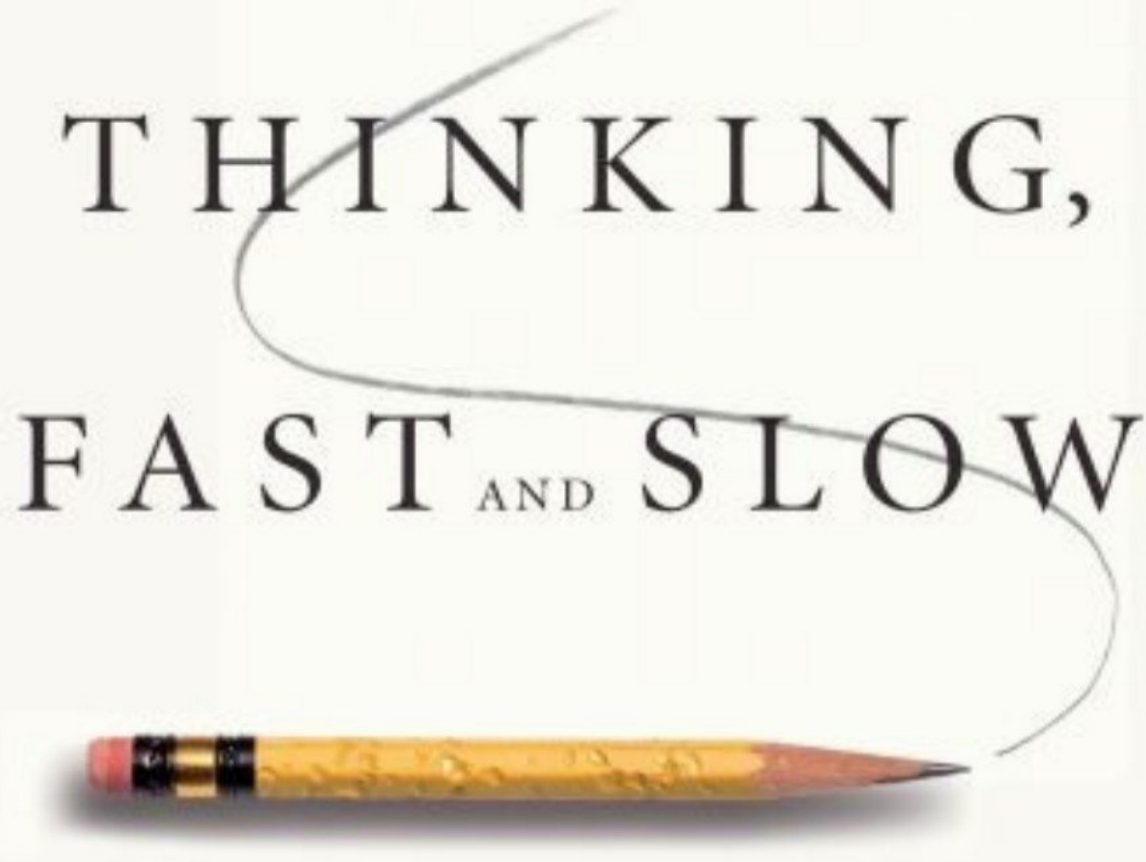

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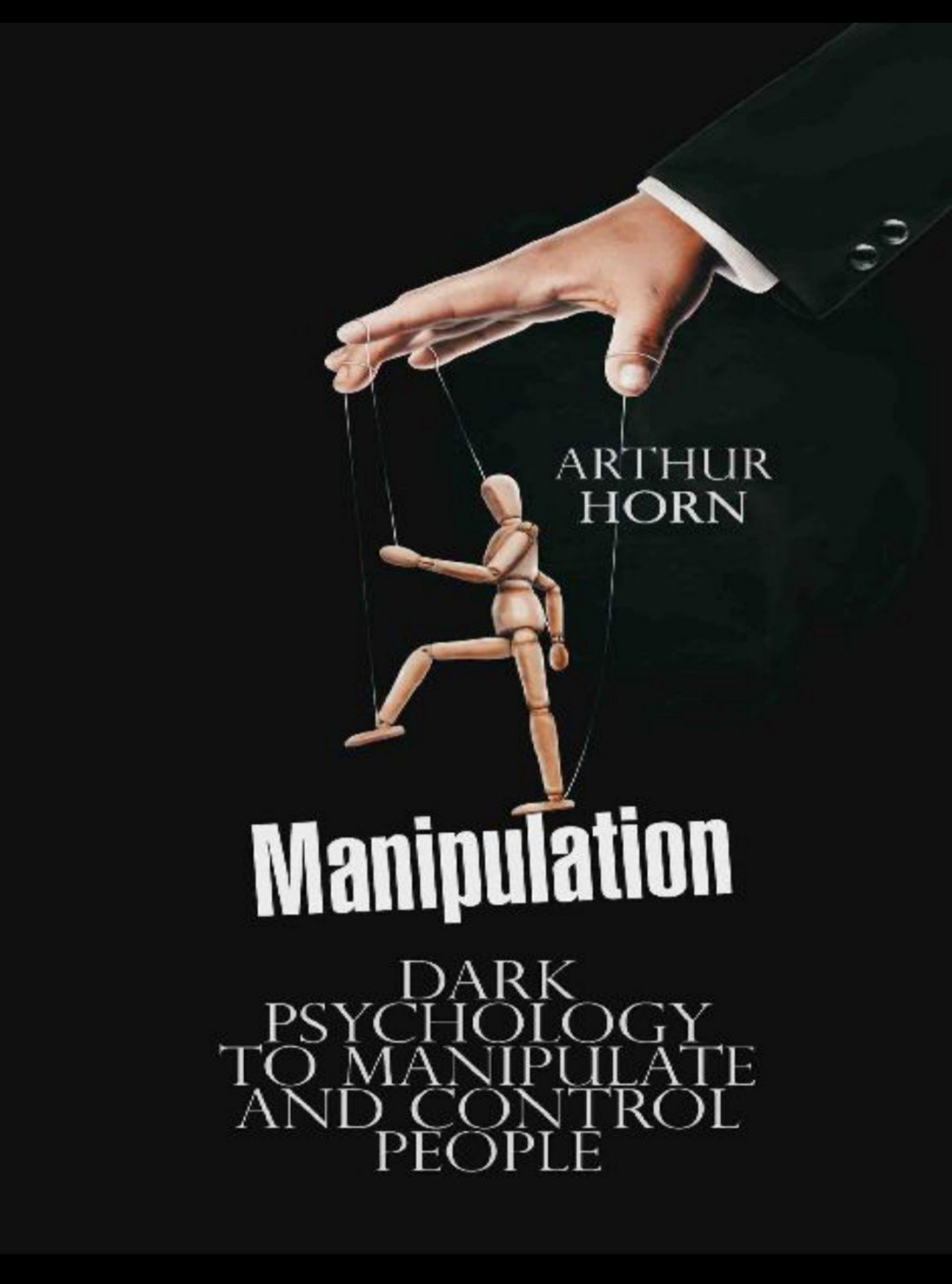
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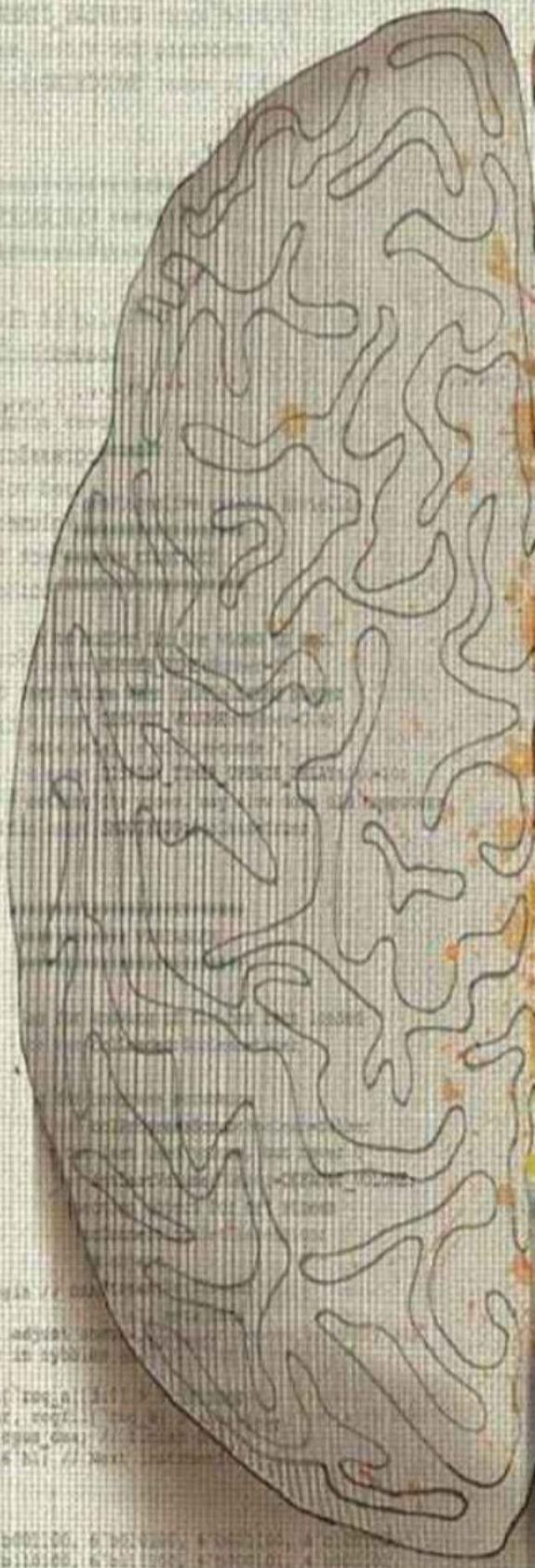

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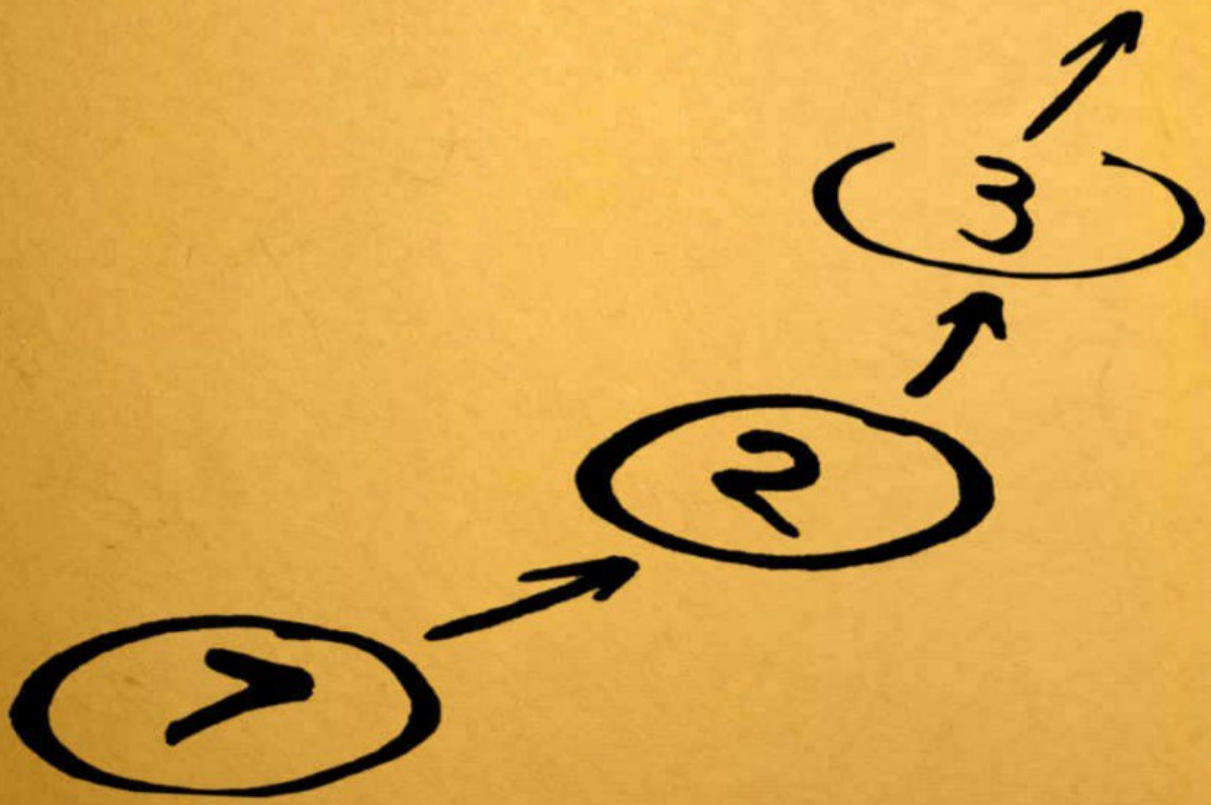

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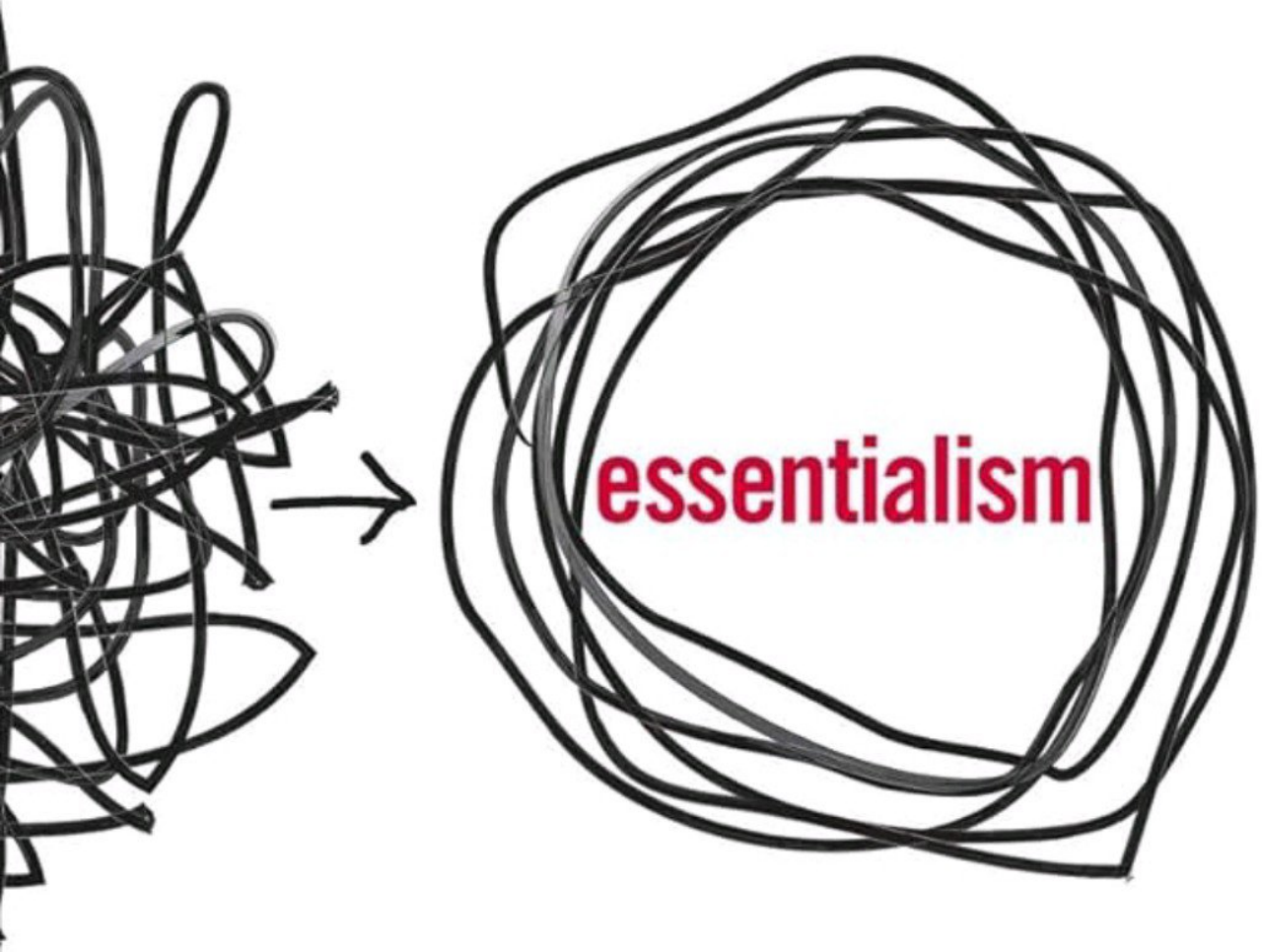

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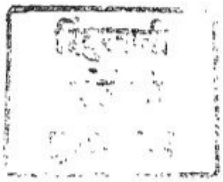

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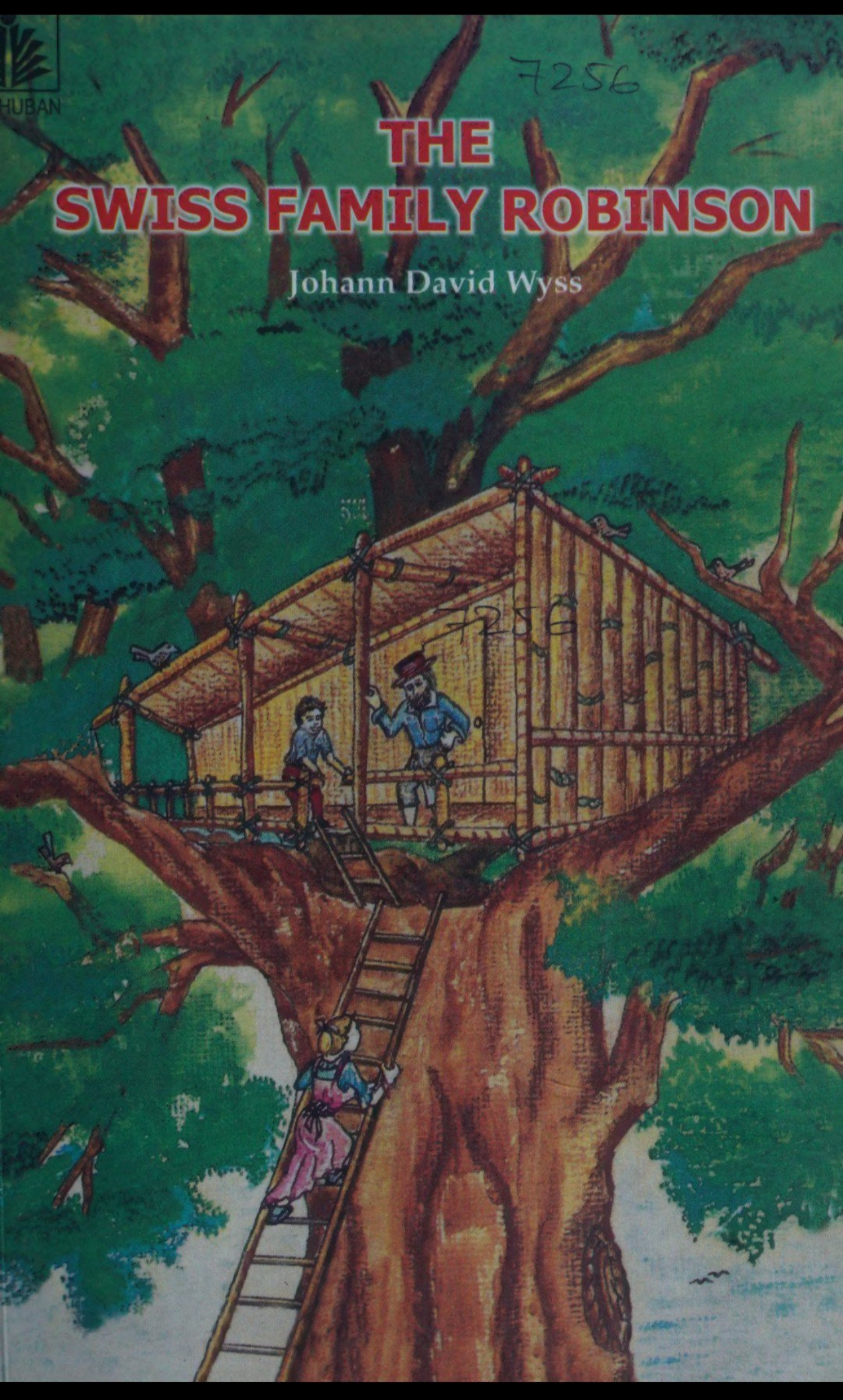

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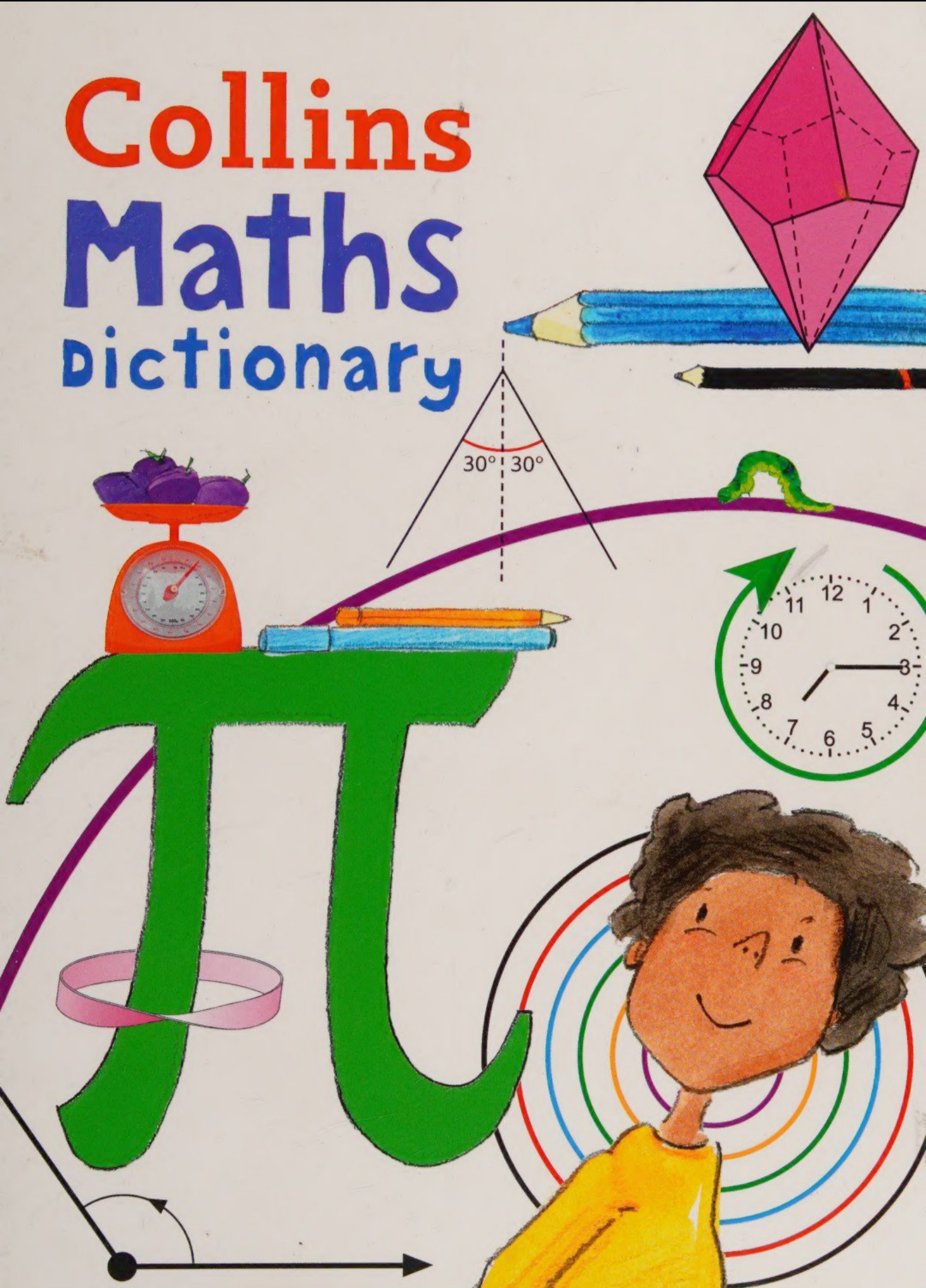

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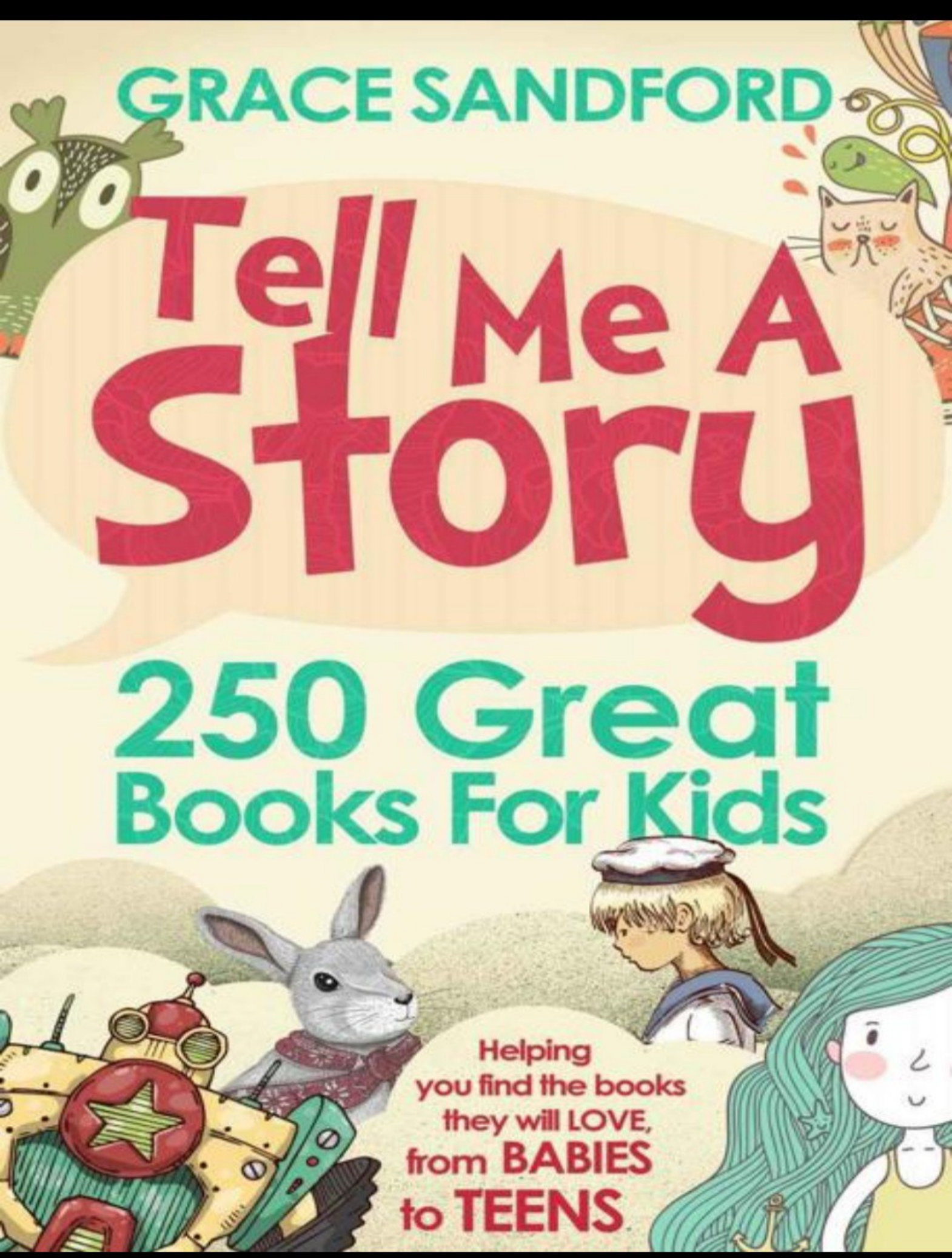

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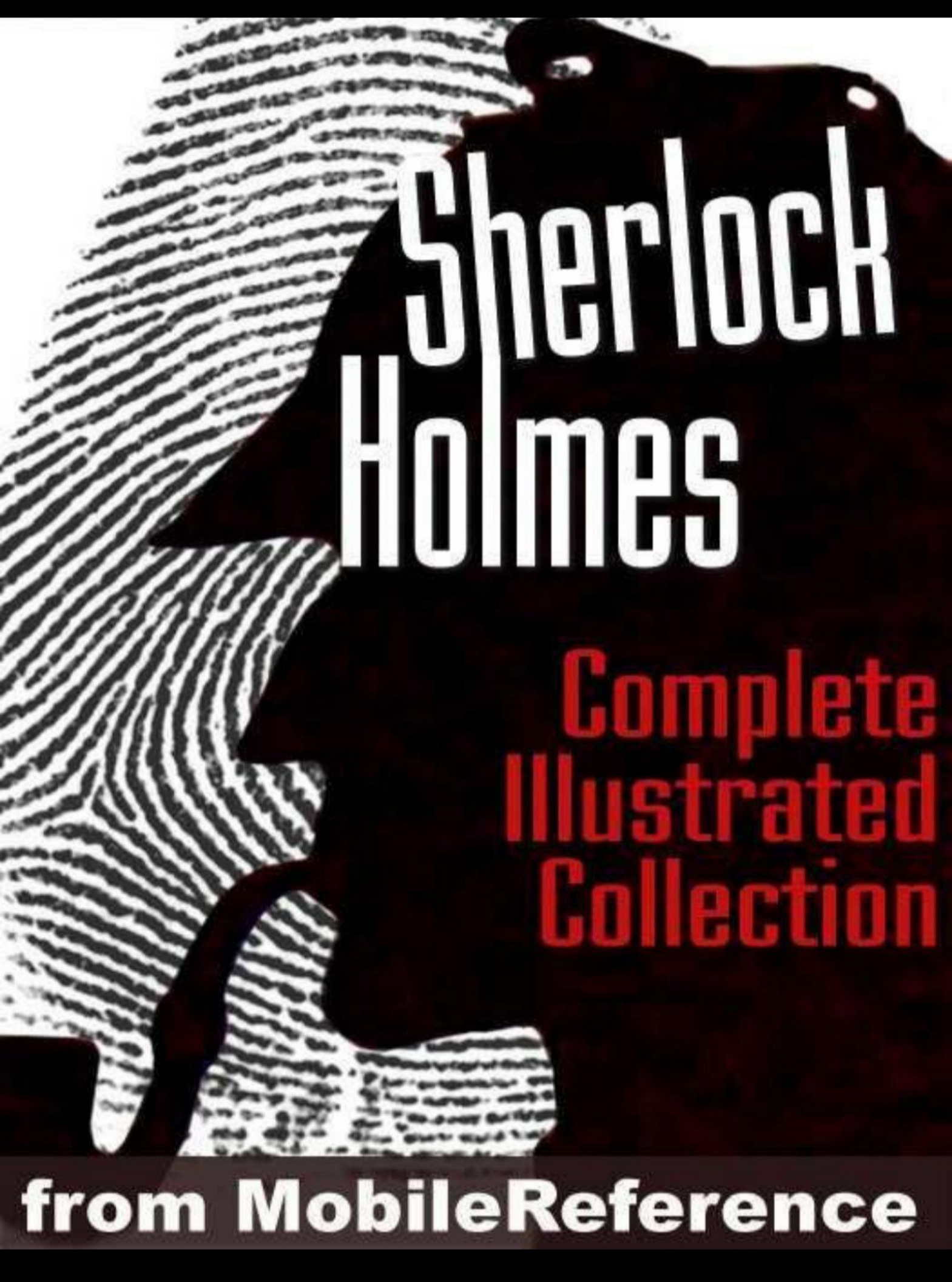
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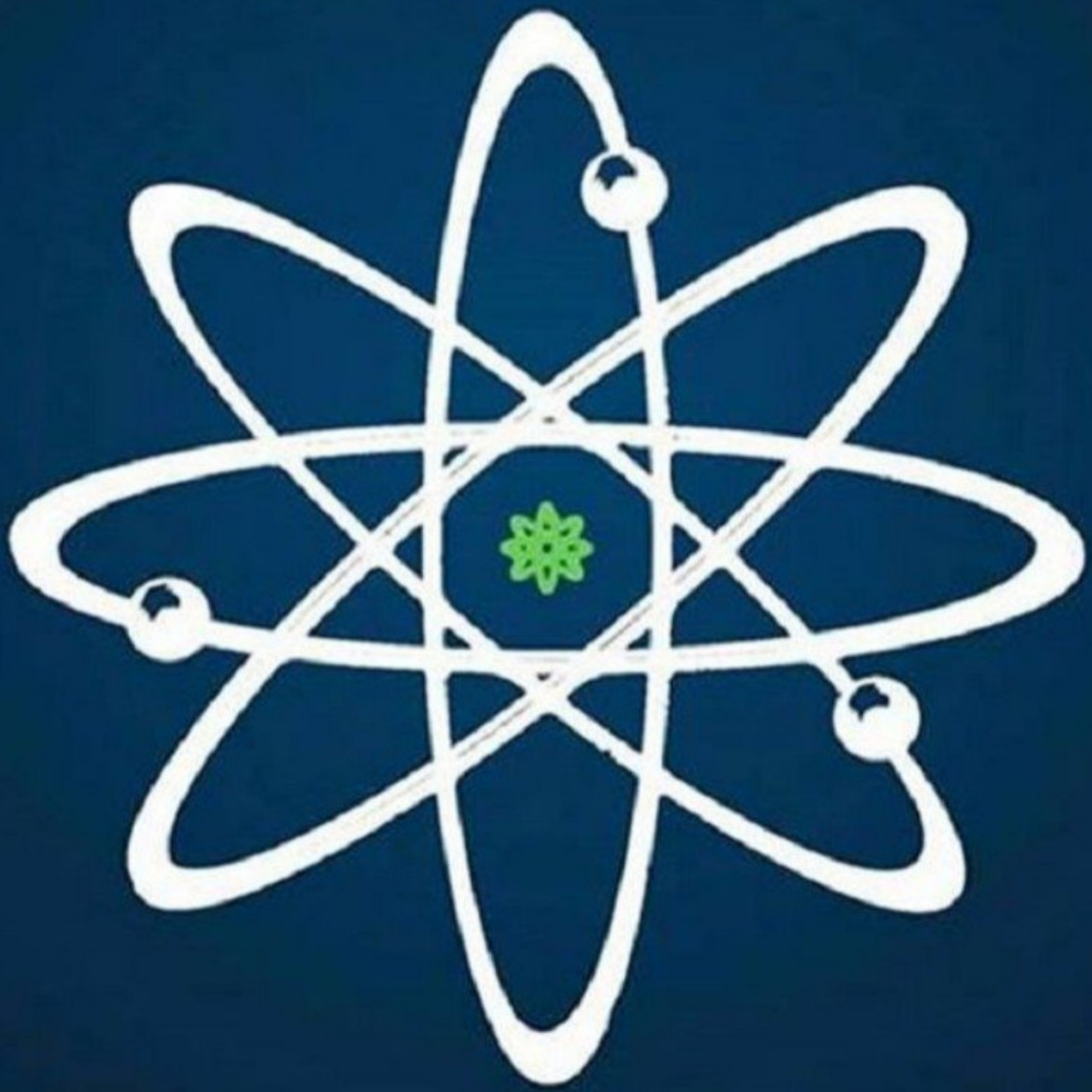

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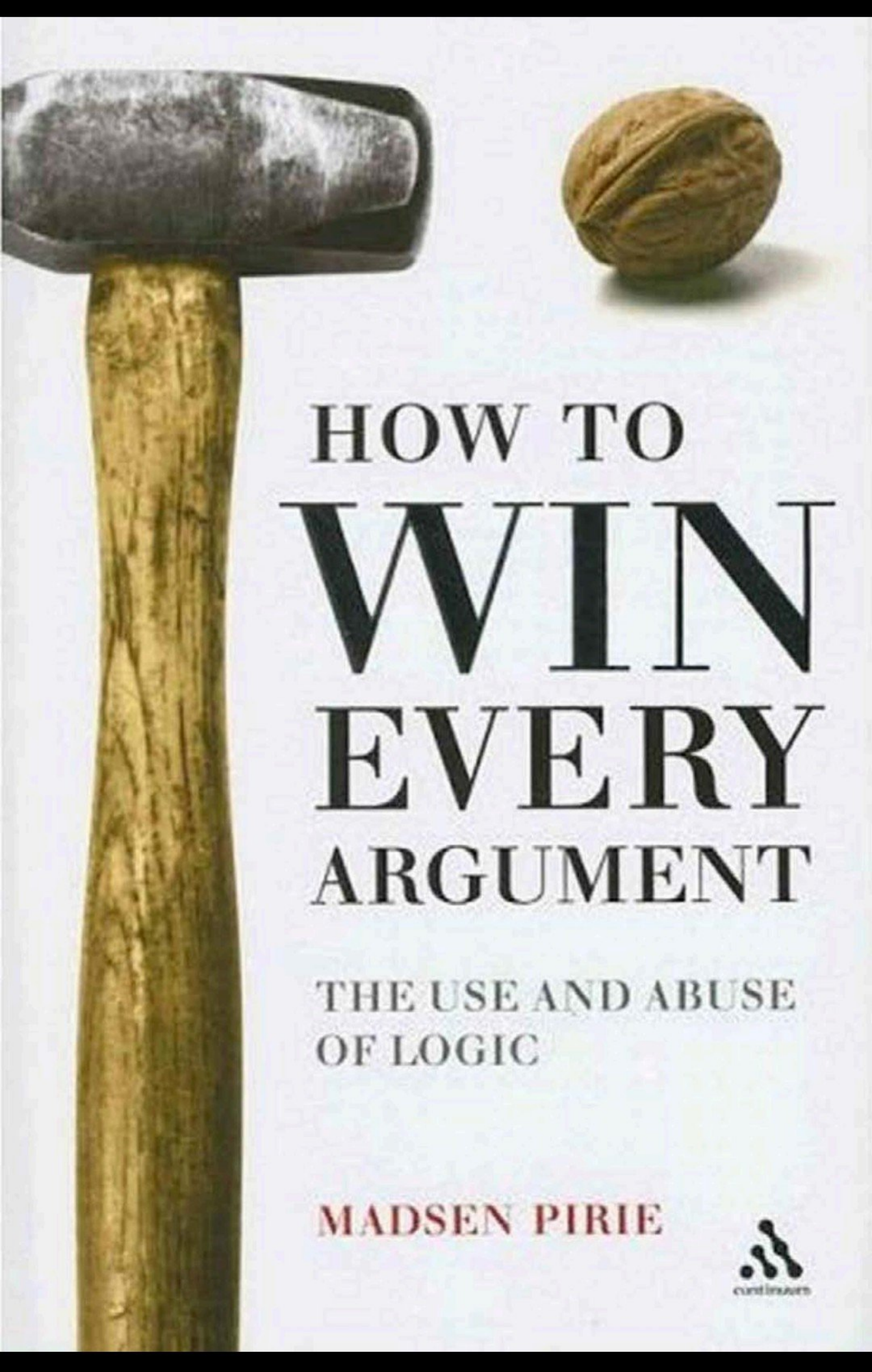

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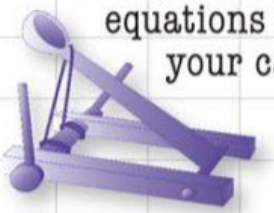

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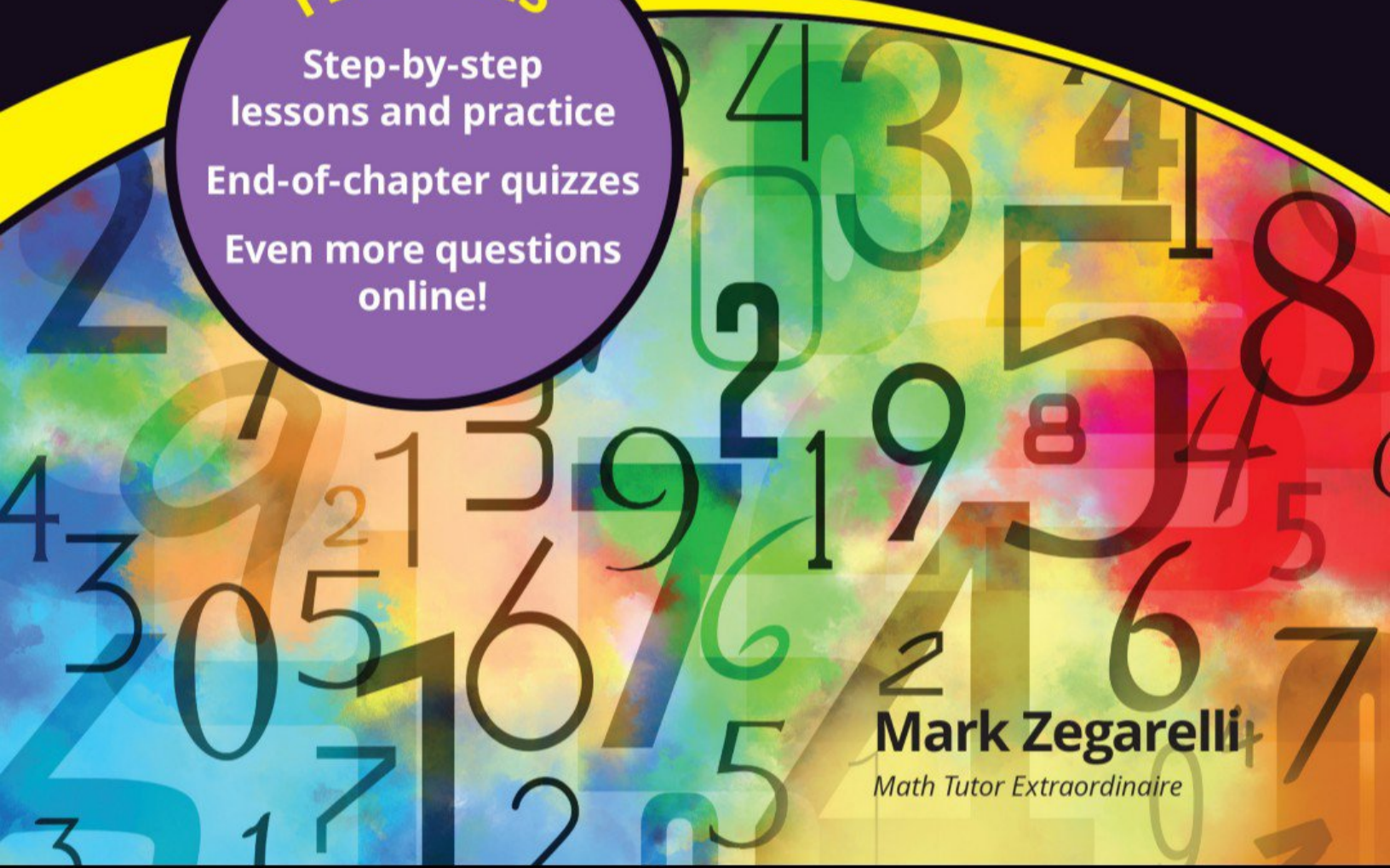

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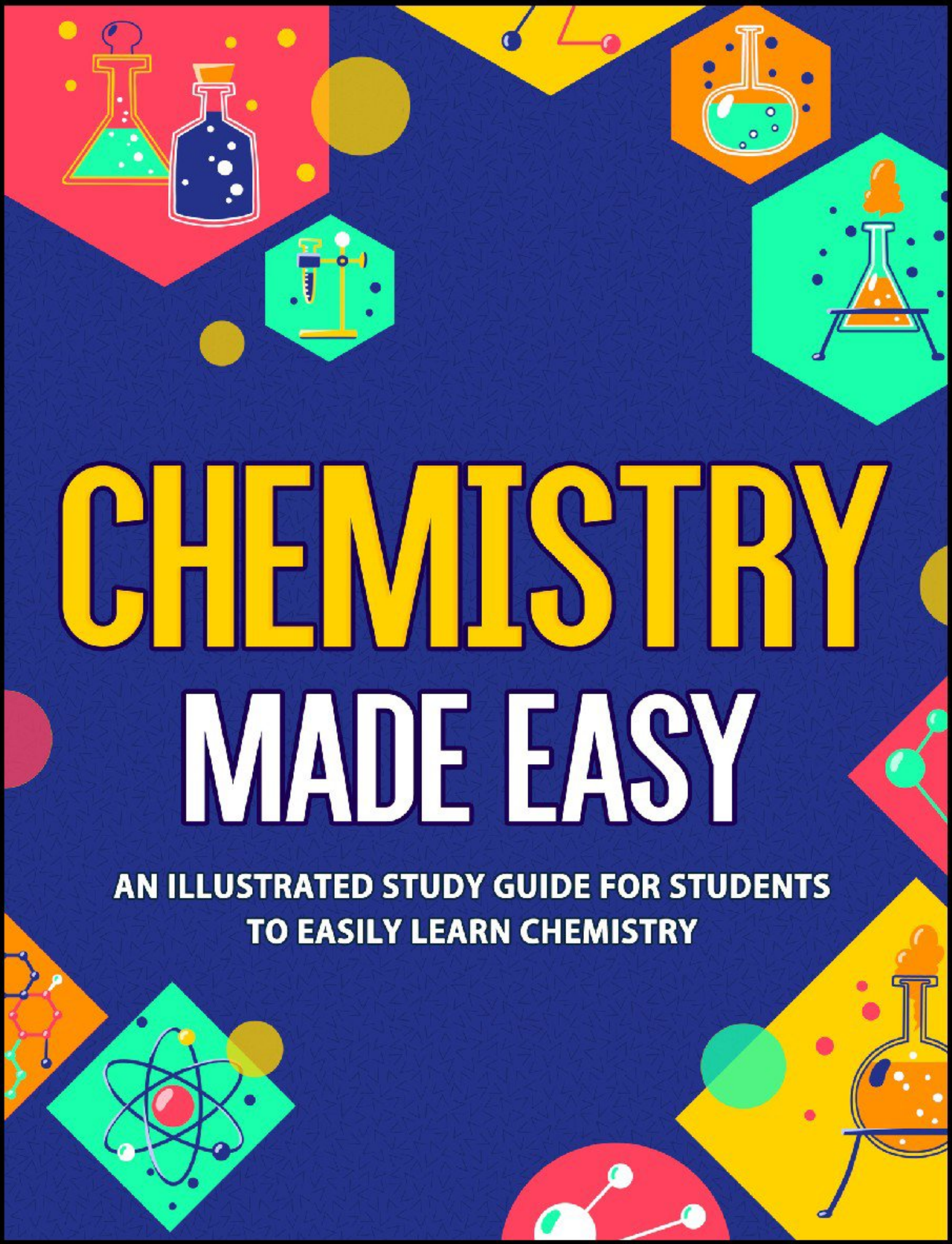
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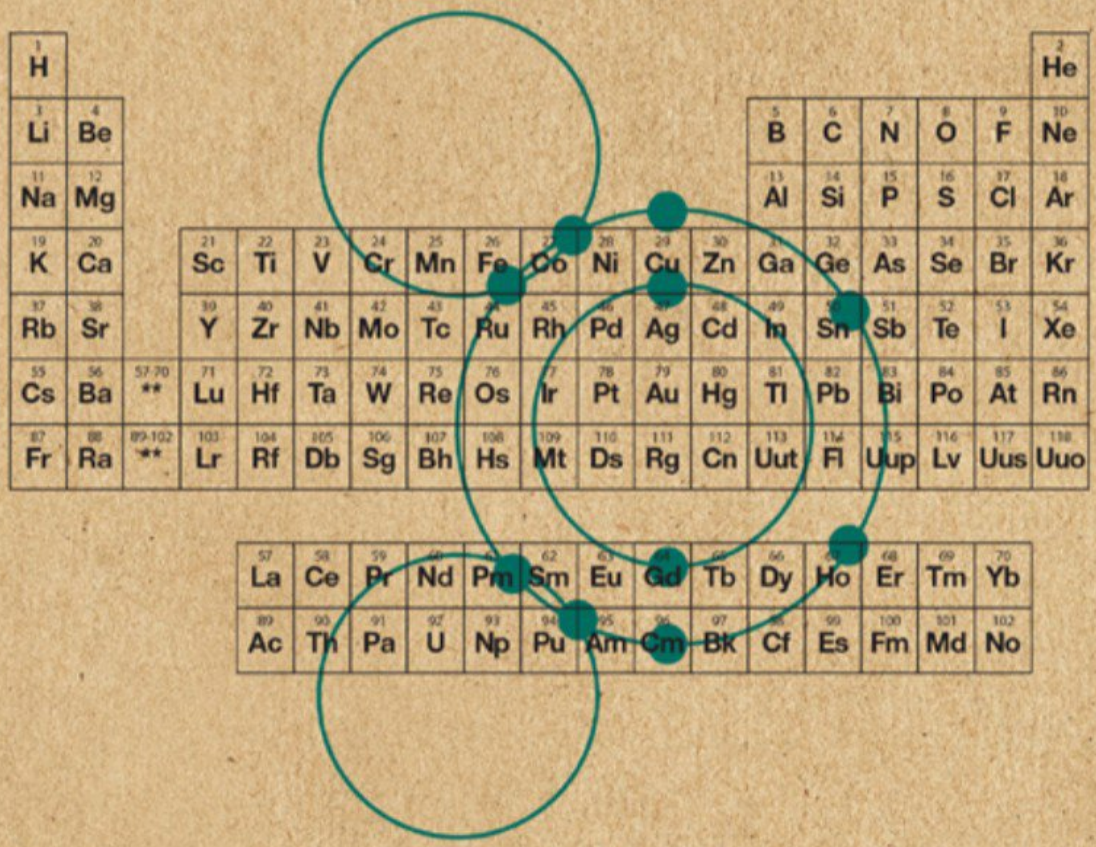

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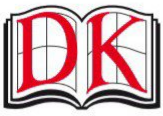

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1 IN 3 START-UPS BEGAN WITH LESS THAN $5,000

MILLENNIALS ARE 188% MORE LIKELY TO HAVE A SIDE BUSINESS

61% OF SMALL BUSINESSES INVEST IN SOCIAL MEDIA

3 NEW START-UPS LAUNCH GLOBALLY EVERY SECOND

69% OF US ENTREPRENEURS STARTED THEIR BUSINESS AT HOME

HOW TO START YOUR OWN BUSINESS

73% OF BUSINESSES IN THE US ARE SOLE PROPRIETORS

A NEW PRODUCT TAKES AT LEAST 1,000 DAYS TO BE PROFITABLE

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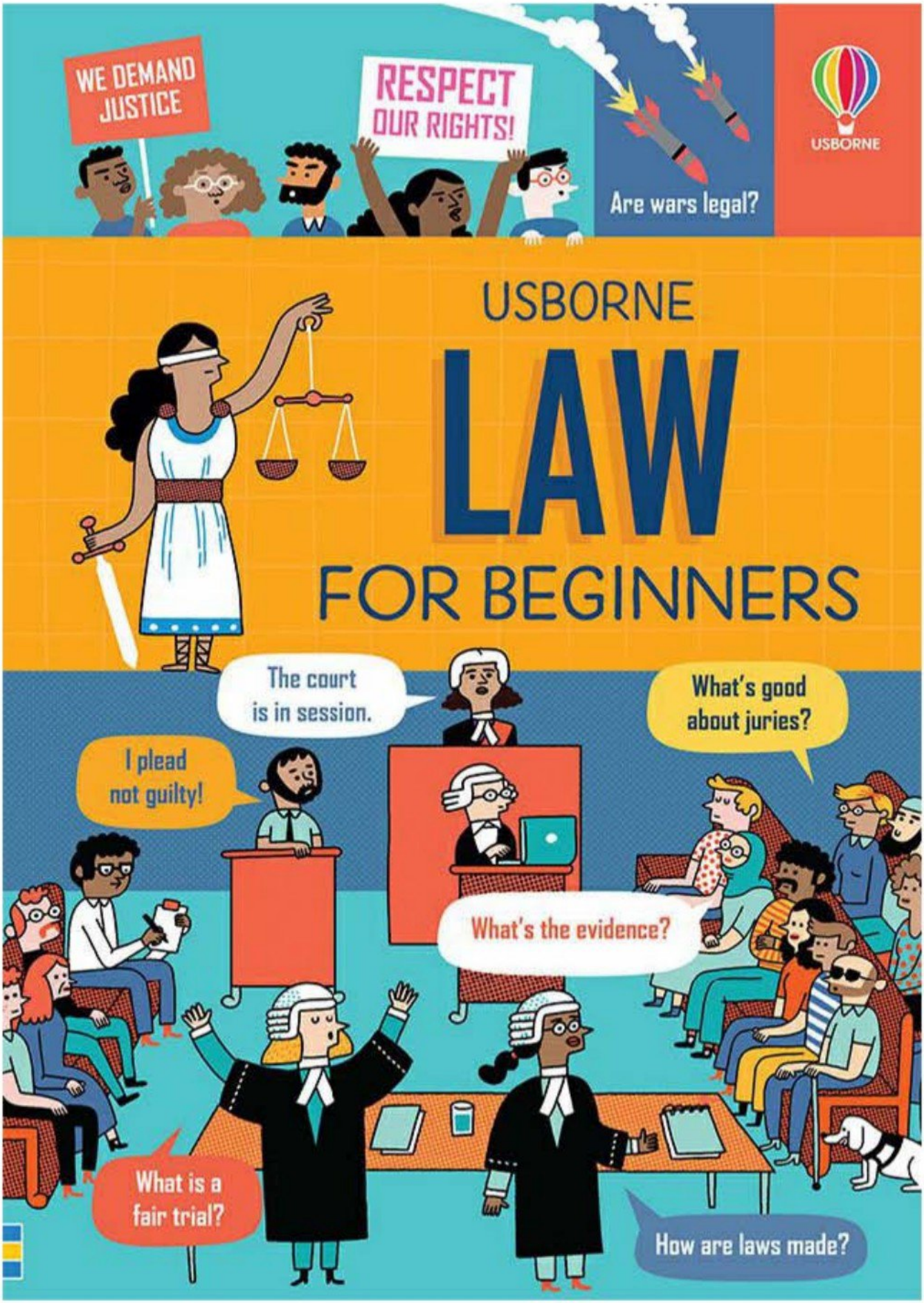
63% OF START-UPS ARE FUNDED FROM SAVINGS

60% OF US BUSINESSES ARE B2B

55% OF PEOPLE START A BUSINESS TO BE THEIR OWN BOSS



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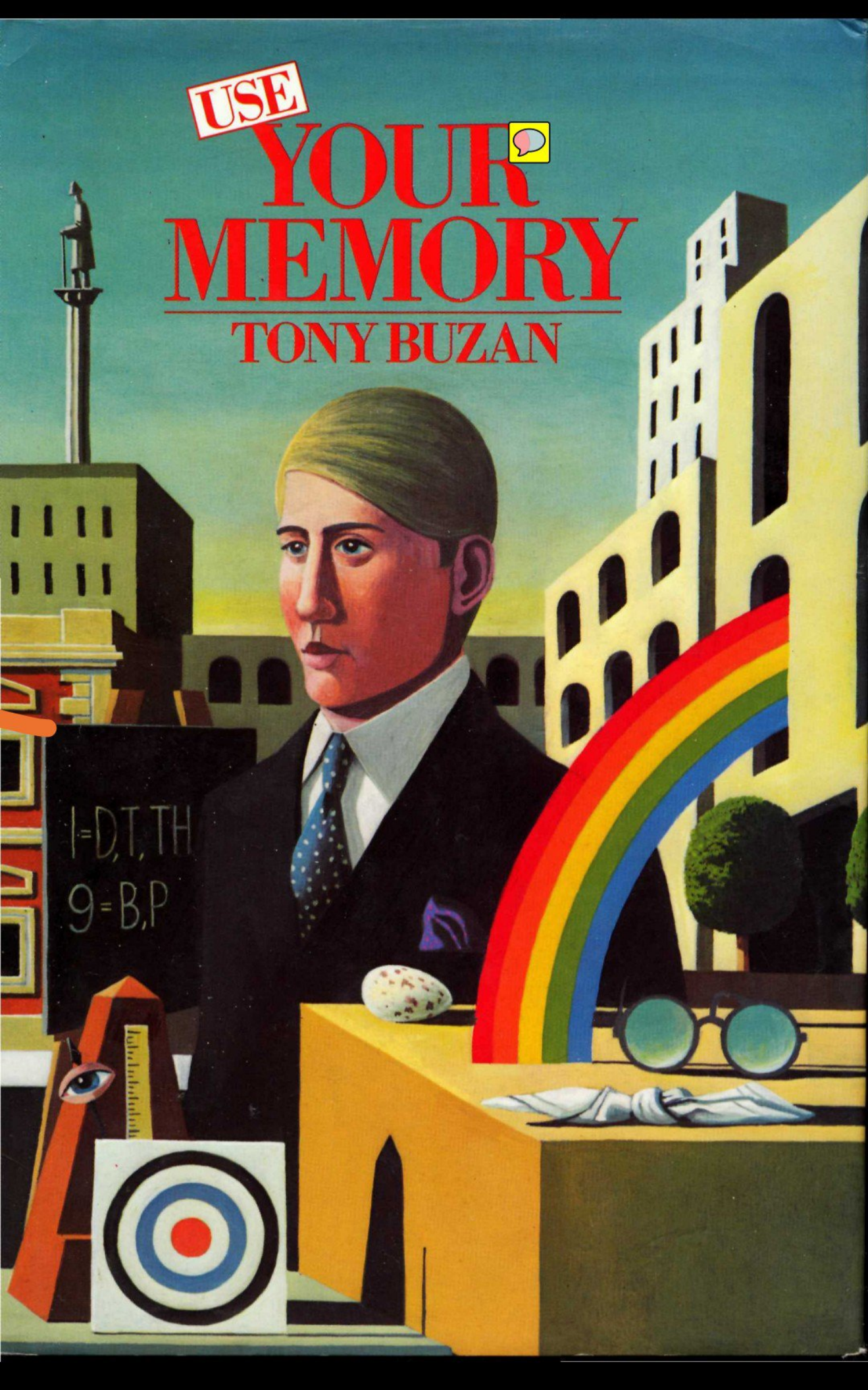

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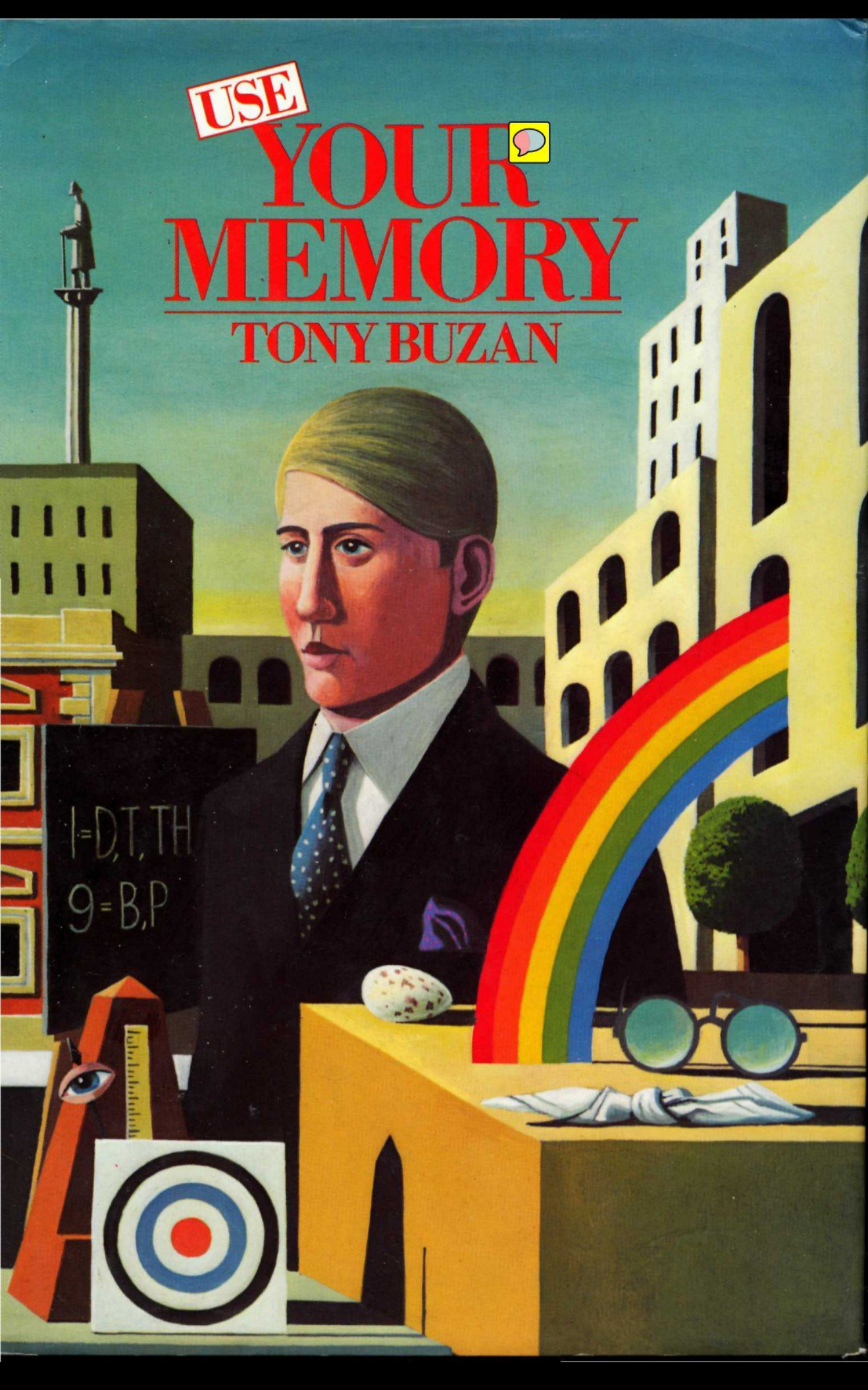

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PUBLISHERS :
BHARATI BHAWAN, PATNA–4

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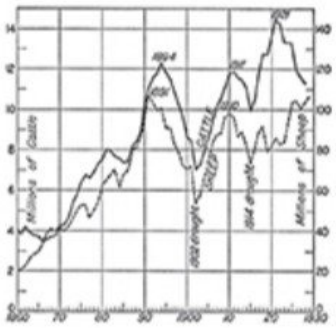

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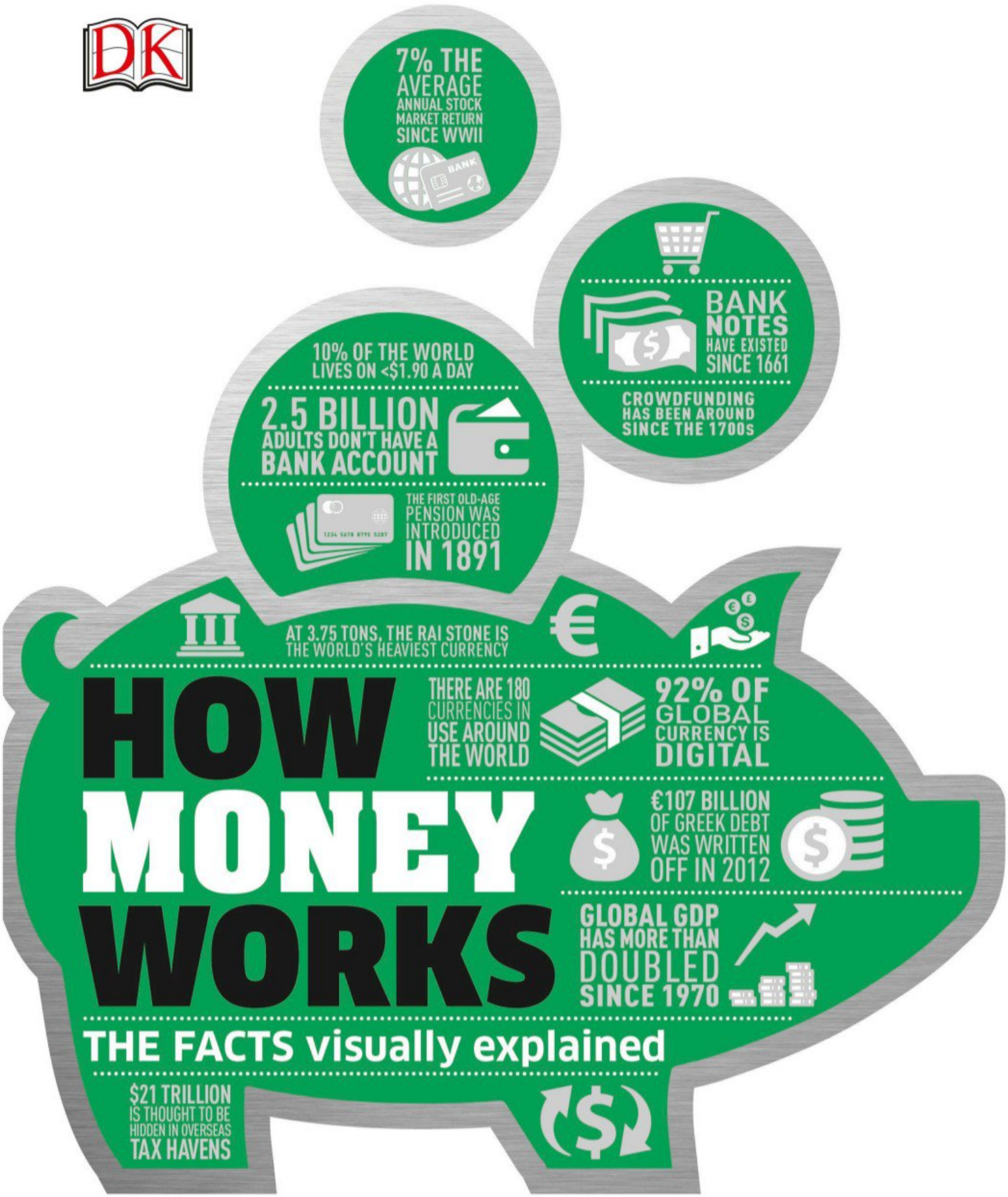
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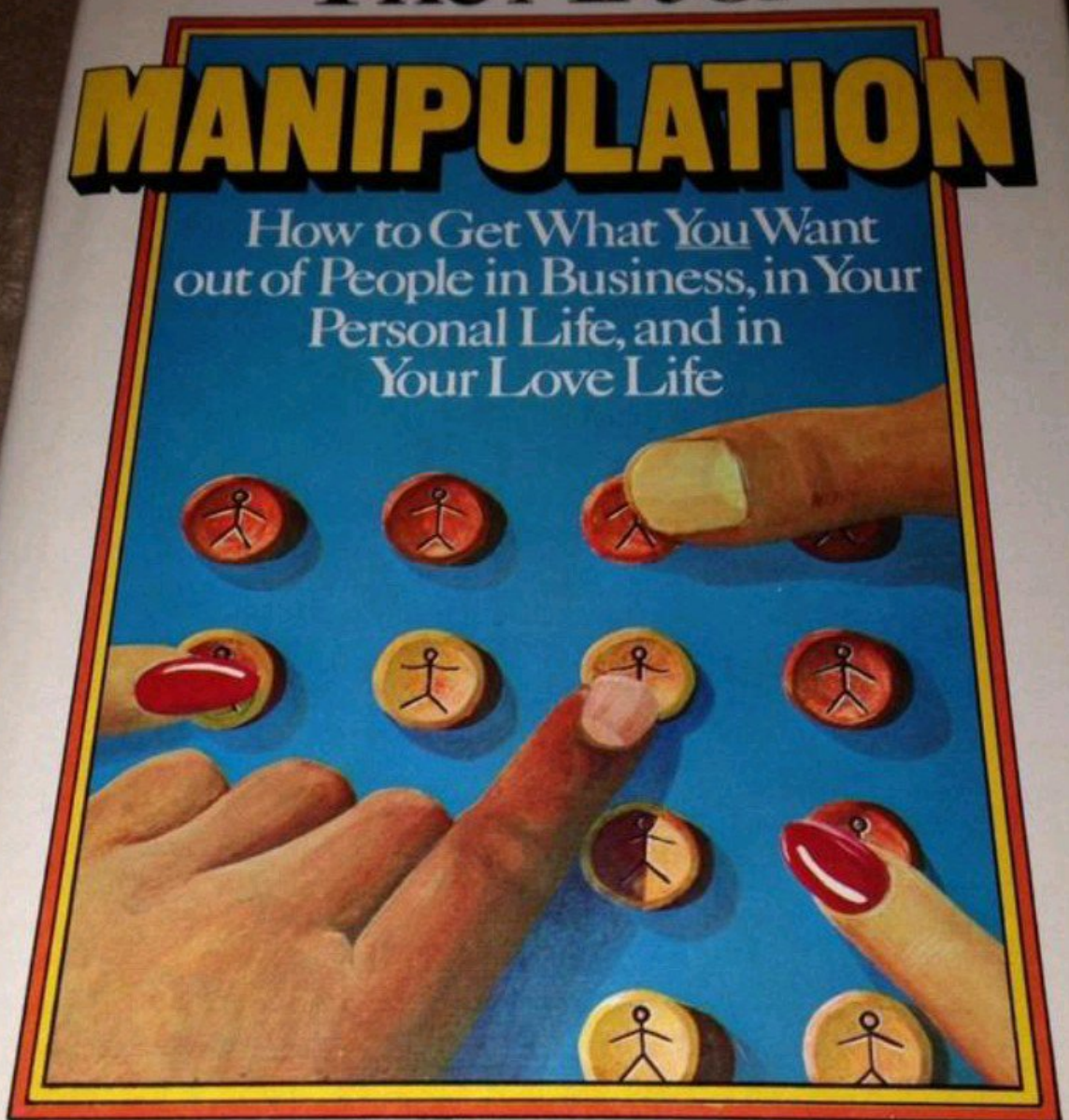

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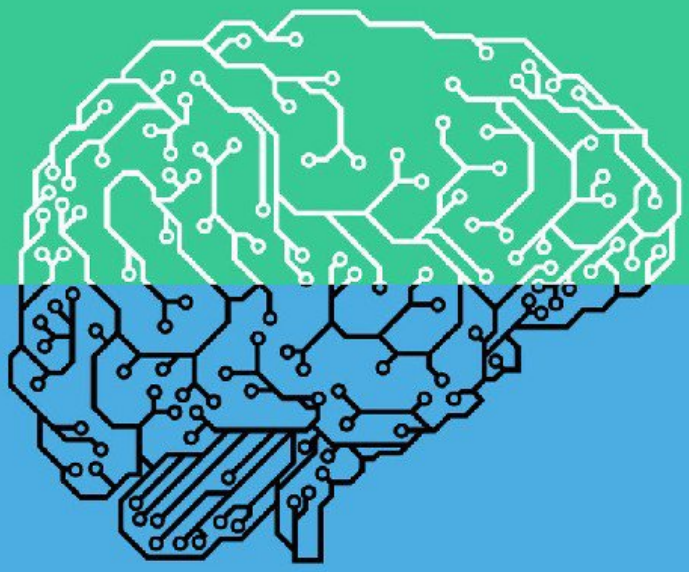

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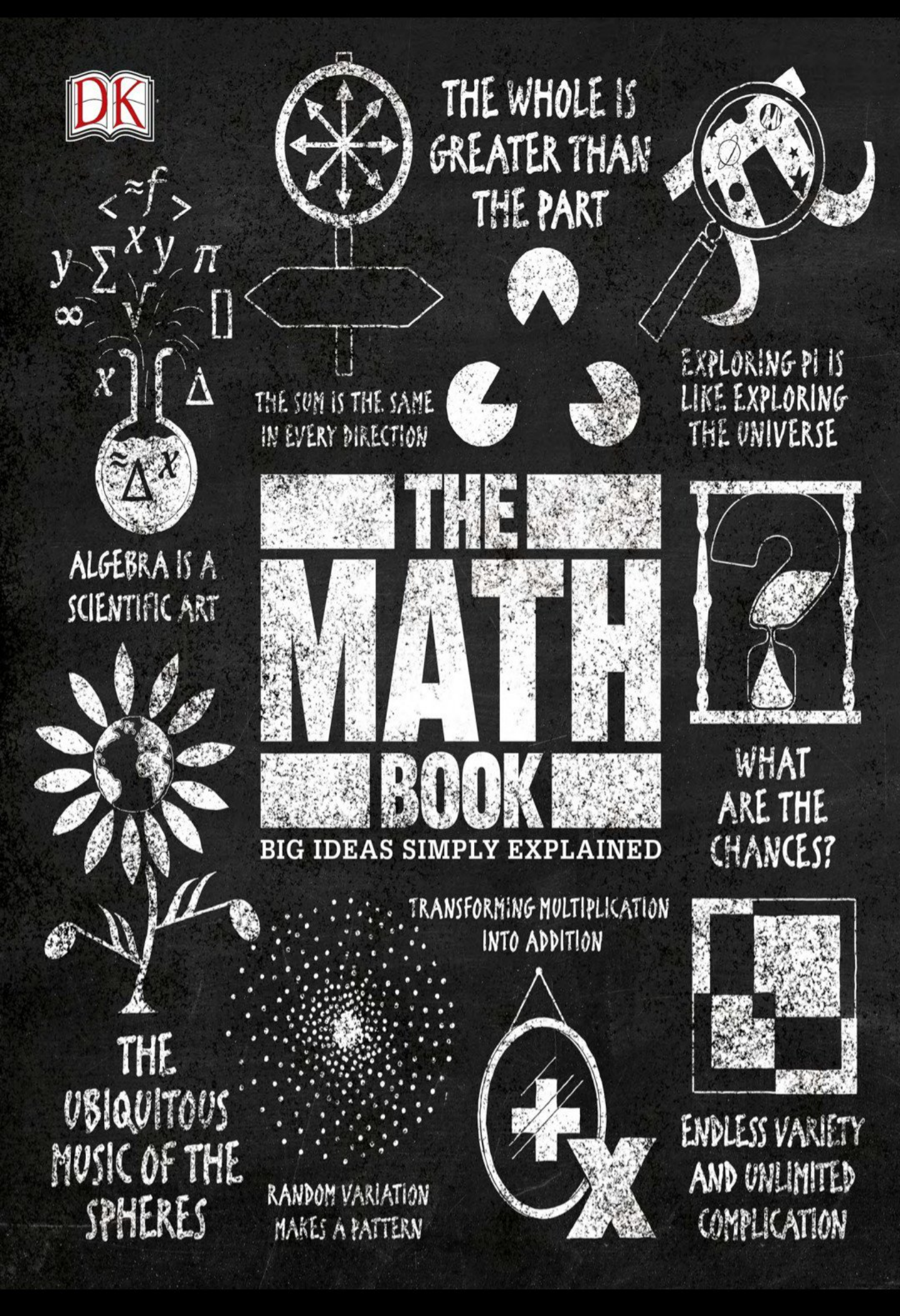
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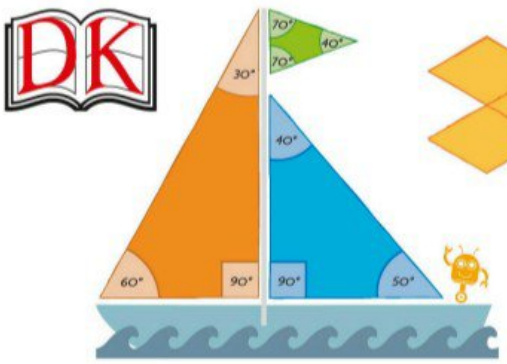

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		1 8	8
+		4	3
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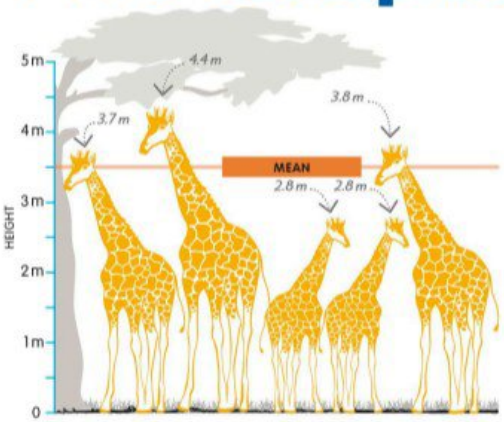

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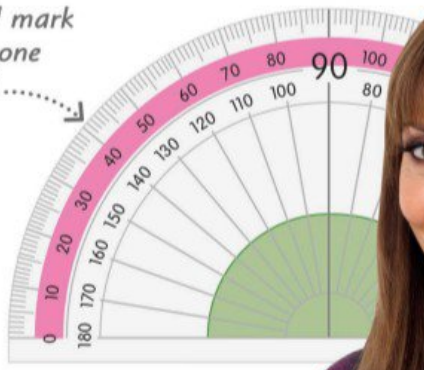

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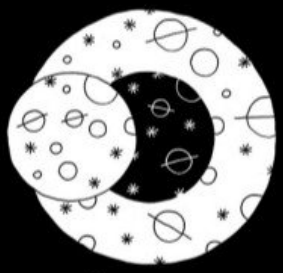

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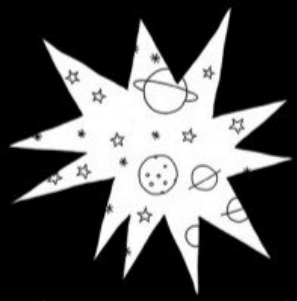

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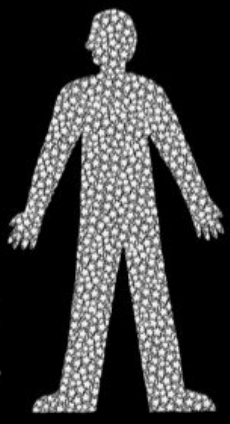

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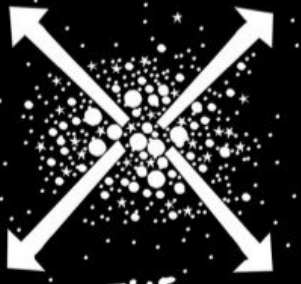

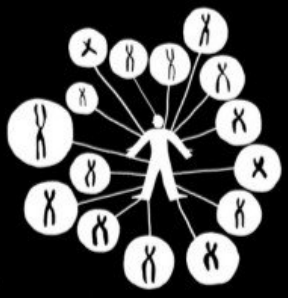

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Parliament and the Judiciary

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Parliament, the Judiciary and the Executive are the three key arms of the state, with well-defined spheres of authority under the Constitution. Parliament represents the law making arm, the Executive is responsible for enforcement of laws, and the Judiciary is in charge of interpretation of the Constitution and laws as well as dispute resolution. Each institution acts as a check and balance on the others' powers, which may create tension in their relationships. In this note, we examine how the relationship between Parliament and the Judiciary has evolved over the years.

Parliament and the Judiciary: The Constitutional Relationship

The Constitution provides for a separation of powers between Parliament and the Judiciary by demarcating their roles and responsibilities. It also lays down various ways by which (i) the Judiciary may guard against the unconstitutional exercise of power by Parliament, and (ii) Parliament may legislate on or act as a check in matters related to the Judiciary.

Separation of powers

A rigid idea of separation of powers as exercised in the United States means that institutions for law making, executive action and judicial power are distinct and do not have overlapping powers. This enables them to exercise a check on each other. However, the United Kingdom (UK) follows a looser model which is based on supremacy of Parliament. No court of law in the UK can strike down a law on grounds that it violates the UK Constitution. The courts may examine validity of subordinate legislation against their parent laws and on other grounds.

India follows a third model of separation of powers. It recognises separate legislative, executive and judicial bodies, but allows some overlap in powers. For example, the Executive may exercise legislative powers by promulgating ordinances.

Source: Justice (Retd.) Ruma Pal, Separation of Powers, The Oxford Handbook of the Indian Constitution; PRS.

Parliament's Powers and Privileges

Powers: Parliament enacts laws, exercises oversight over the Executive, sanctions government expenditure and represents citizens. It also has the power to amend the Constitution. Note that Parliament has the power to legislate on matters related to the Judiciary such as its powers, jurisdiction, organisation and service conditions of judges. It also has the power to remove judges on grounds of proved misbehaviour or incapacity.

Immunity from court proceedings: To grant Parliament autonomy in its functioning, the Constitution guarantees certain protections to parliamentary proceedings and those participating in them. For example, Members of Parliament (MPs) enjoy immunity from court proceedings for anything that they say or any vote that they make in Parliament. The Constitution bars the courts from examining validity of parliamentary proceedings on grounds of irregularity of procedure. The courts also cannot hold any person liable for any material (e.g. reports and proceedings) that is published under the authority of Parliament. They also cannot question any officer of Parliament or MP regarding actions taken by them for regulating business or maintaining order in Parliament.

Judiciary's Responsibilities and Powers

Powers: The Judiciary adjudicates disputes and administers justice under criminal law. In addition, the higher judiciary (Supreme Court and High Courts) acts as the custodian of the Constitution because it is responsible for its interpretation and enforcement. The higher judiciary also has the power to strike down laws of Parliament and actions of the Executive as invalid, if they violate the Constitution. This is called the power of judicial review.

For example, a law may be declared as invalid if it violates the fundamental rights guaranteed by the Constitution. A law may also be declared invalid if its subject-matter is outside Parliament's area of competence (e.g. a central law on police may be invalid because police falls within the state legislatures' domain).

Striking down of Section 66A of the Information Technology Act, 2000: An exercise of judicial review

Section 66A of the Information Technology Act, 2000 stated that any person who by means of a computer or device sends any information that is: (i) grossly offensive, (ii) false and meant for the purpose of causing annoyance, inconvenience or danger, (iii) meant to deceive the recipient, shall be punishable with imprisonment up to three years and fine.

The Supreme Court exercised its power of judicial review and struck down this provision as unconstitutional. It held that Section 66A violates Article 19(1)(a) of the Constitution that protects freedom of speech and expression.

Sources: Shreya Singhal vs Union of India, Supreme Court, Writ Petition (Criminal) No. 167 of 2012, March 24, 2015; PRS.

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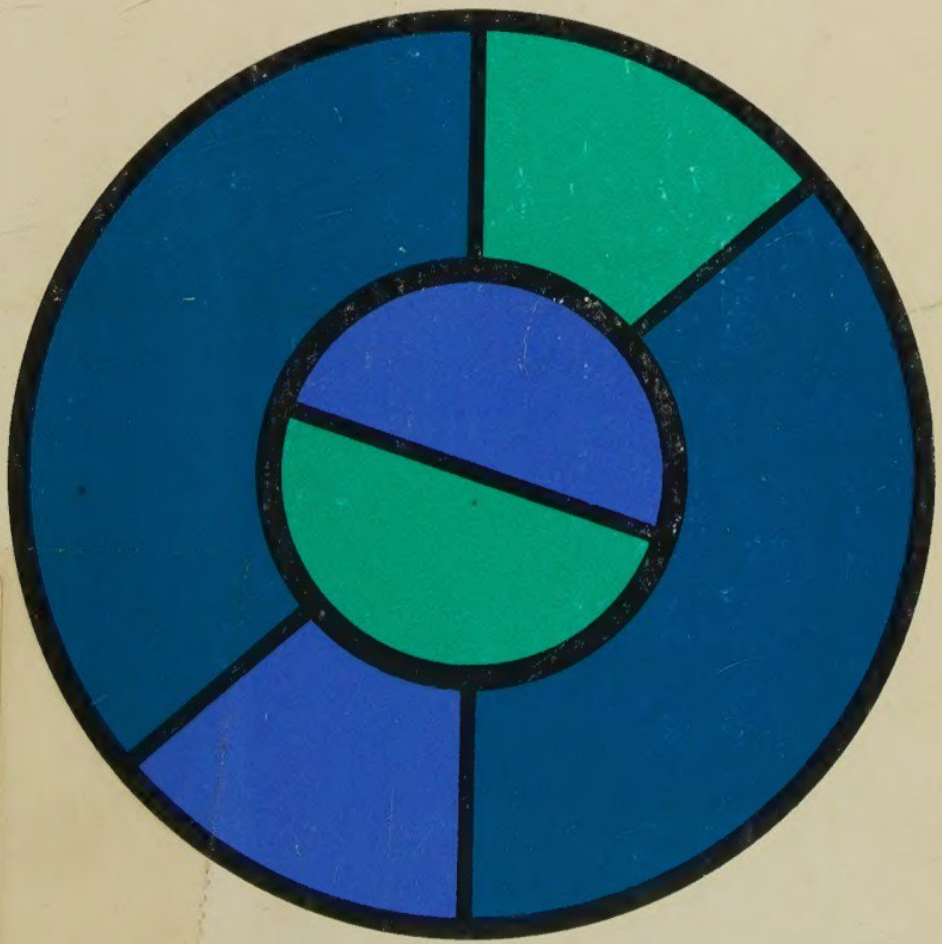

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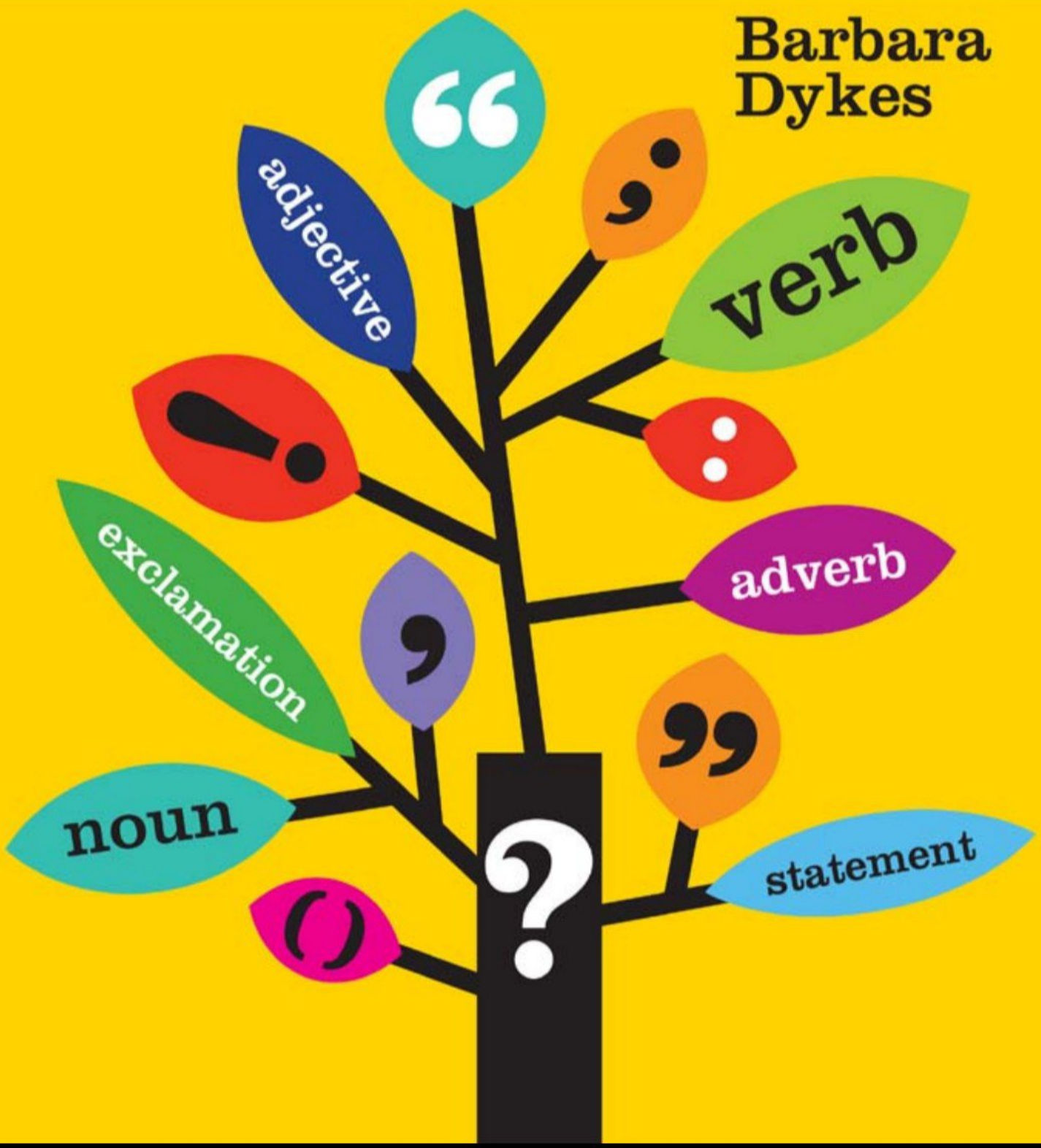

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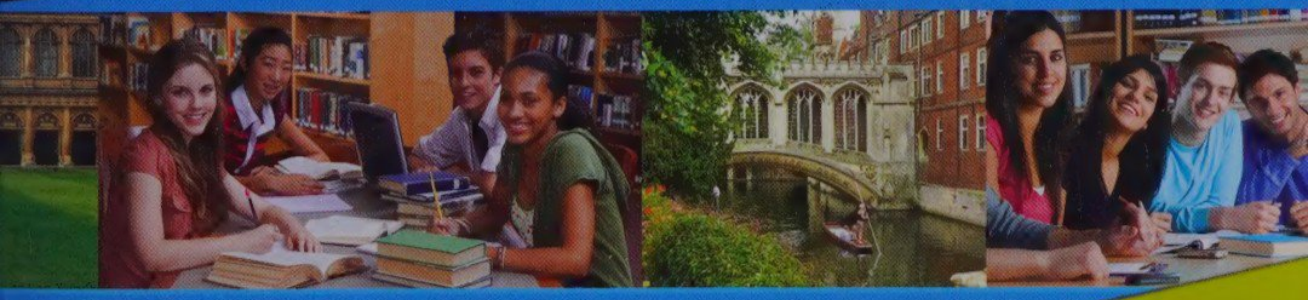

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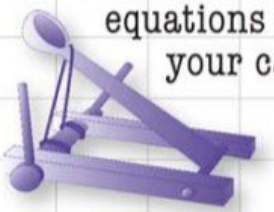

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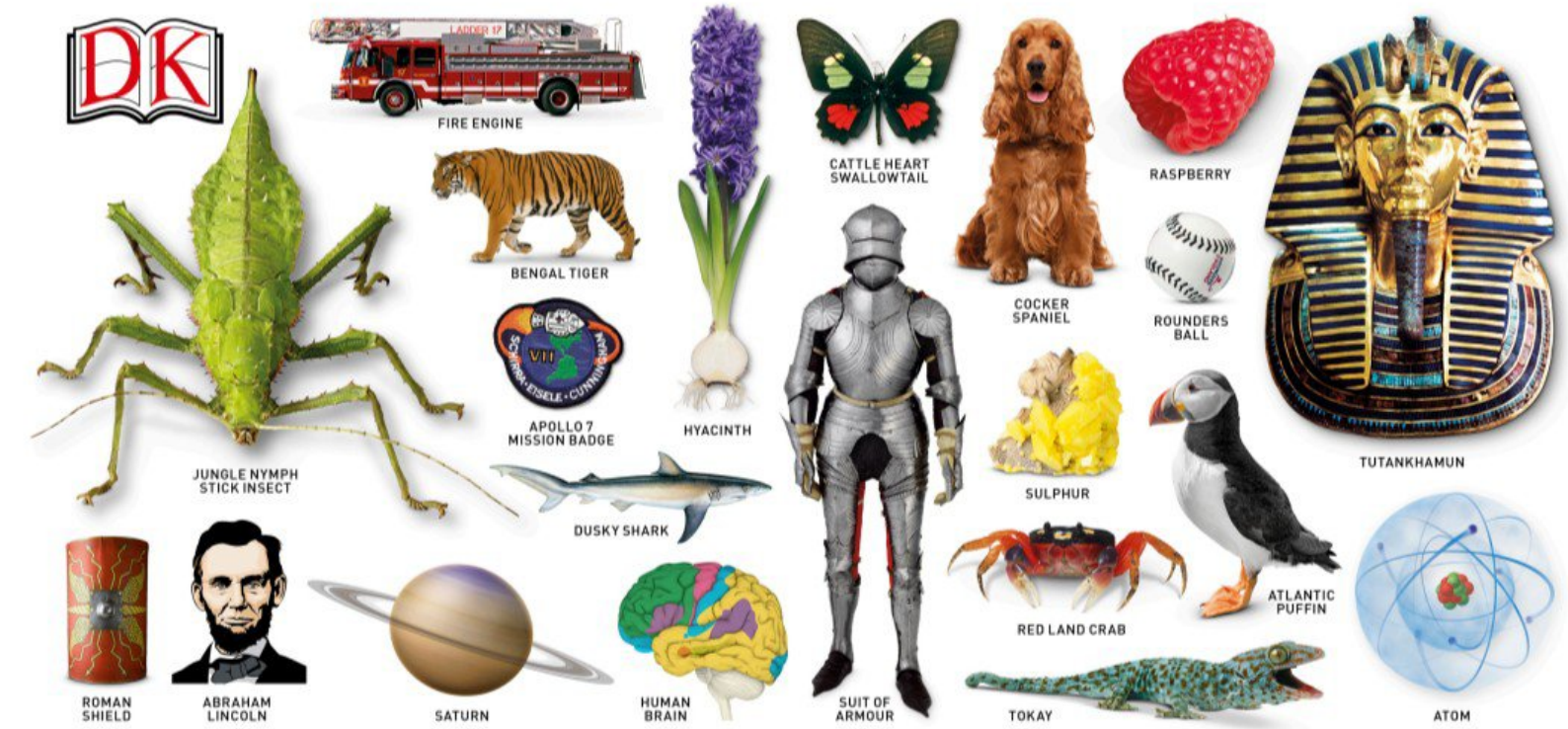

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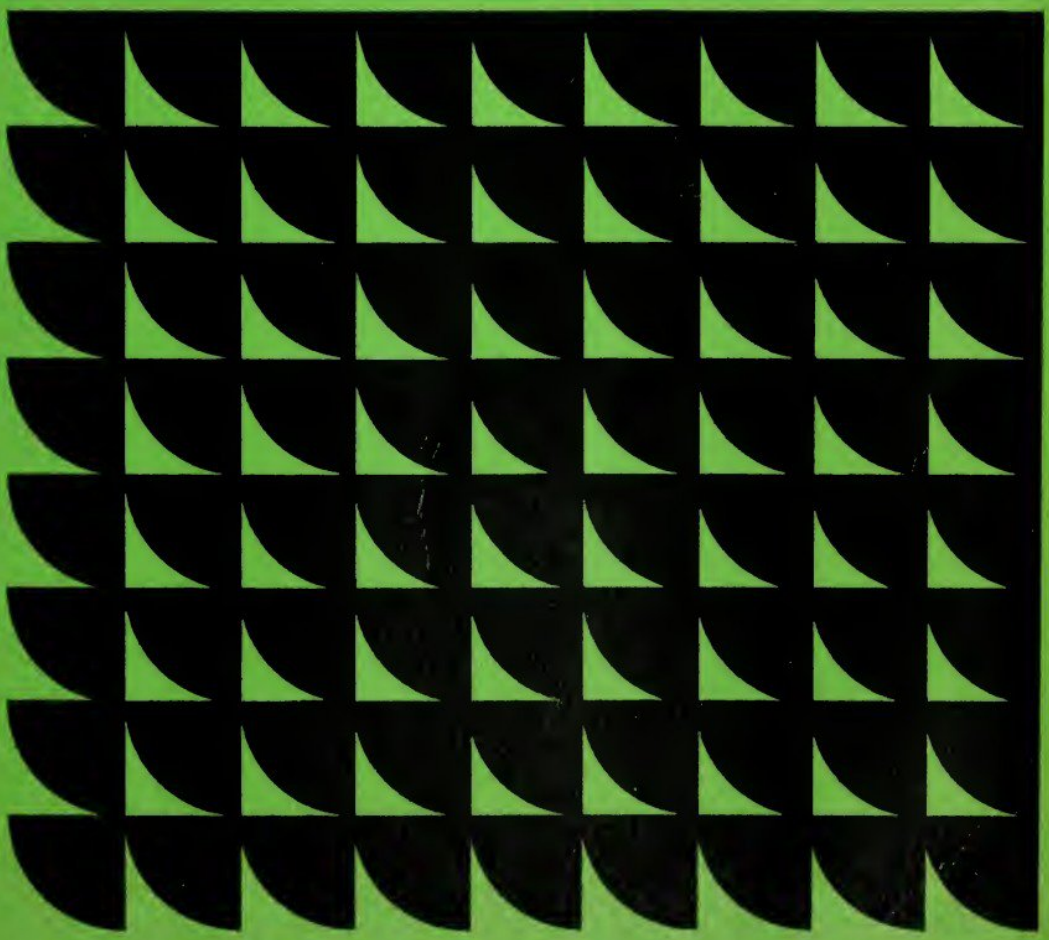

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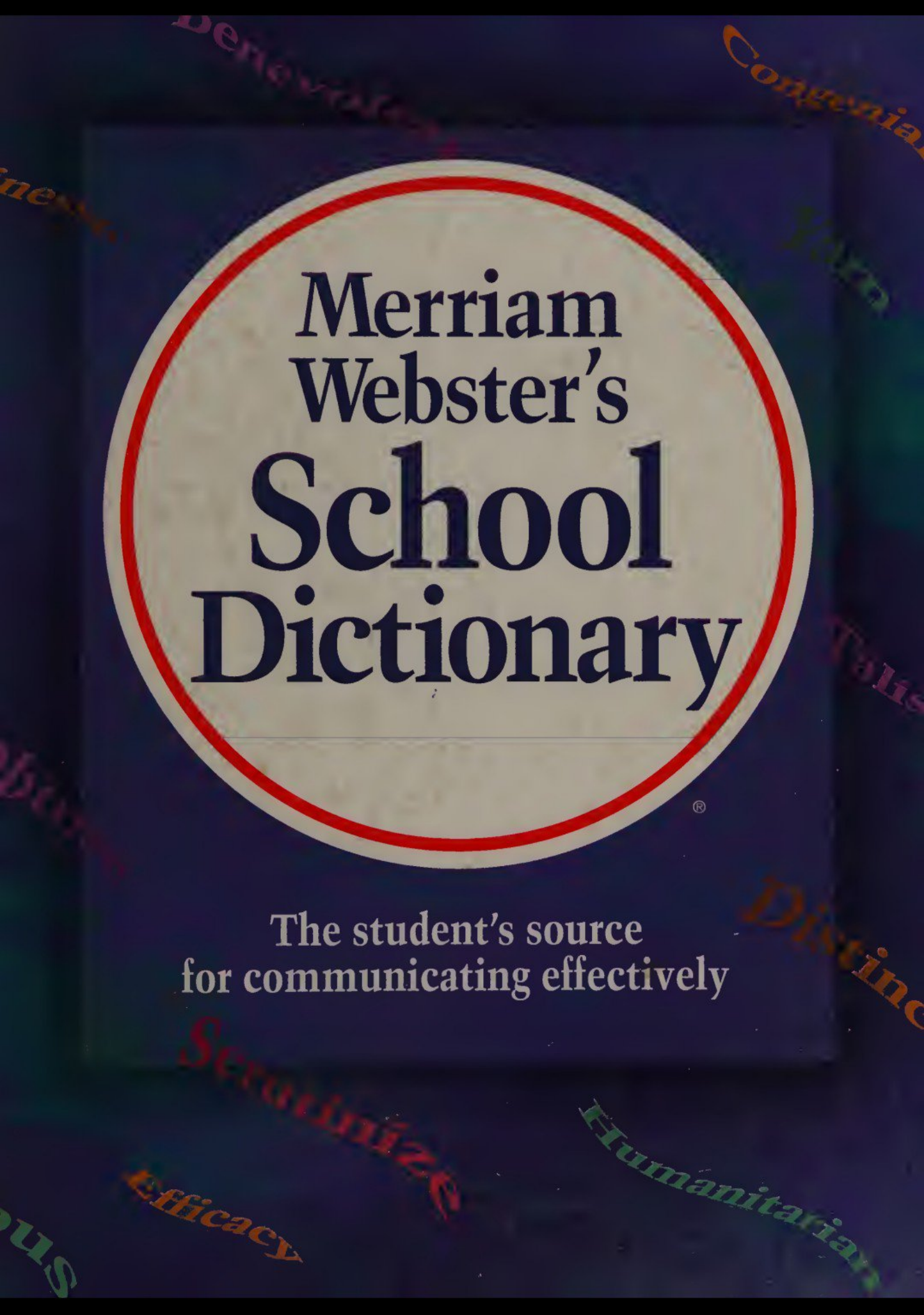
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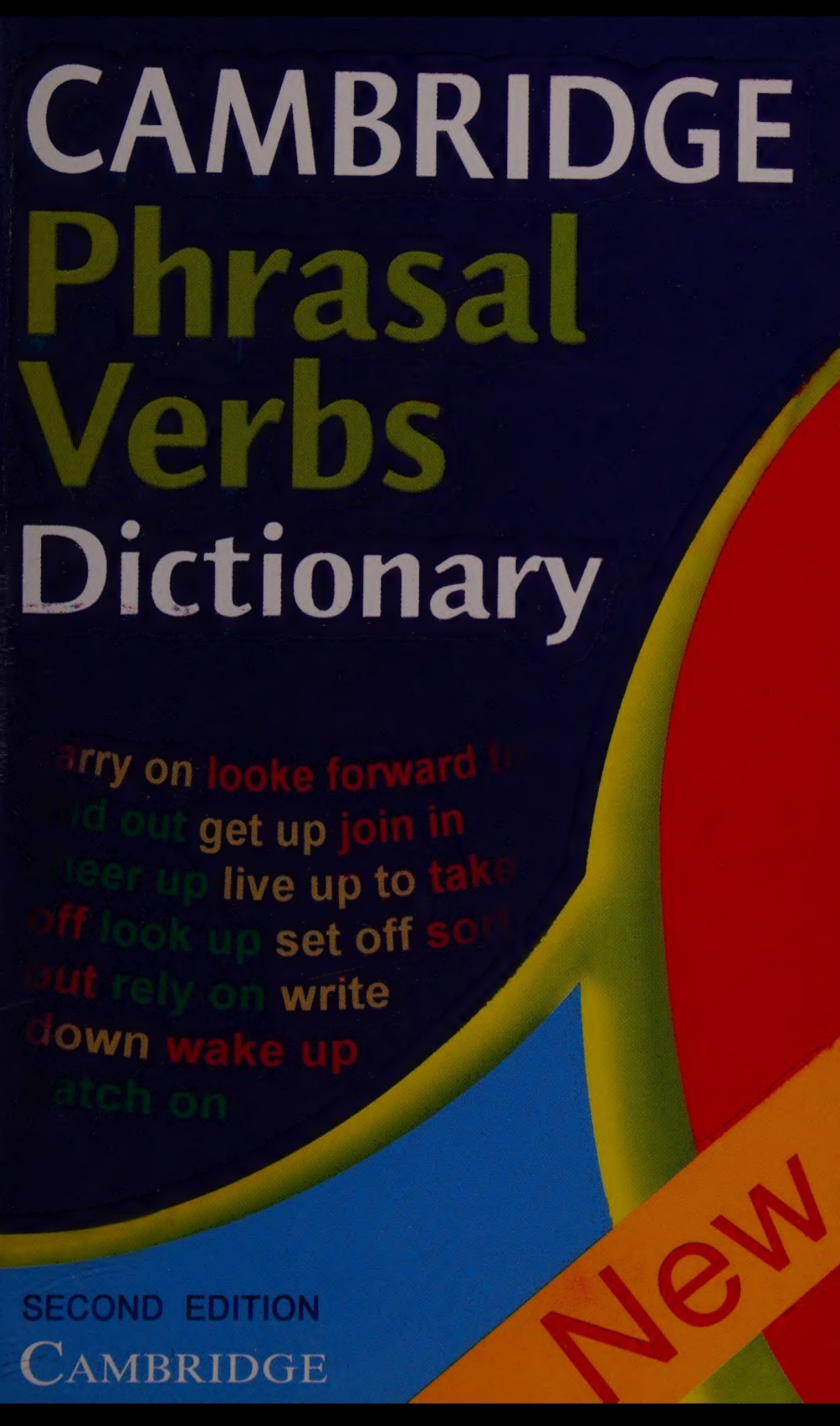

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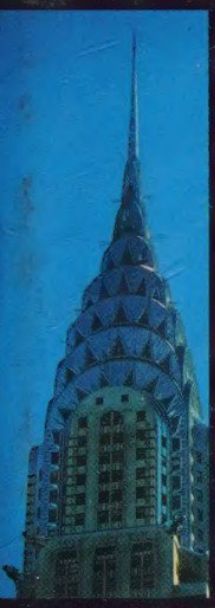

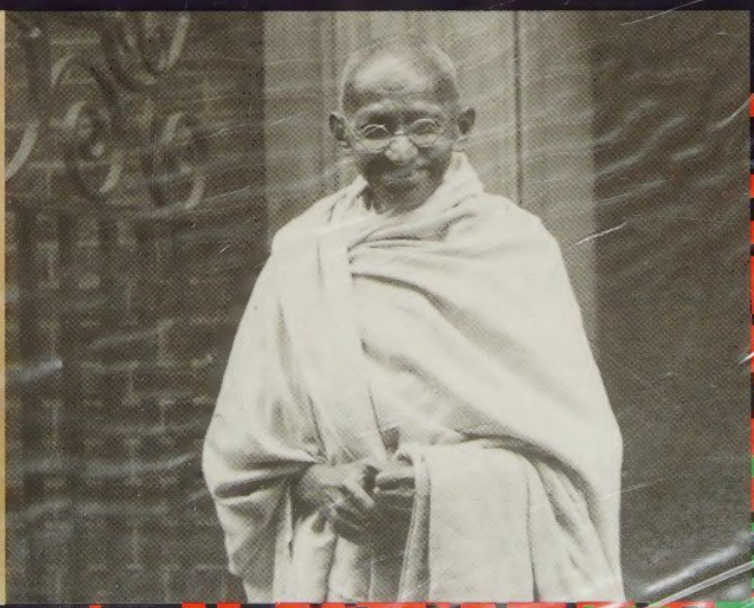

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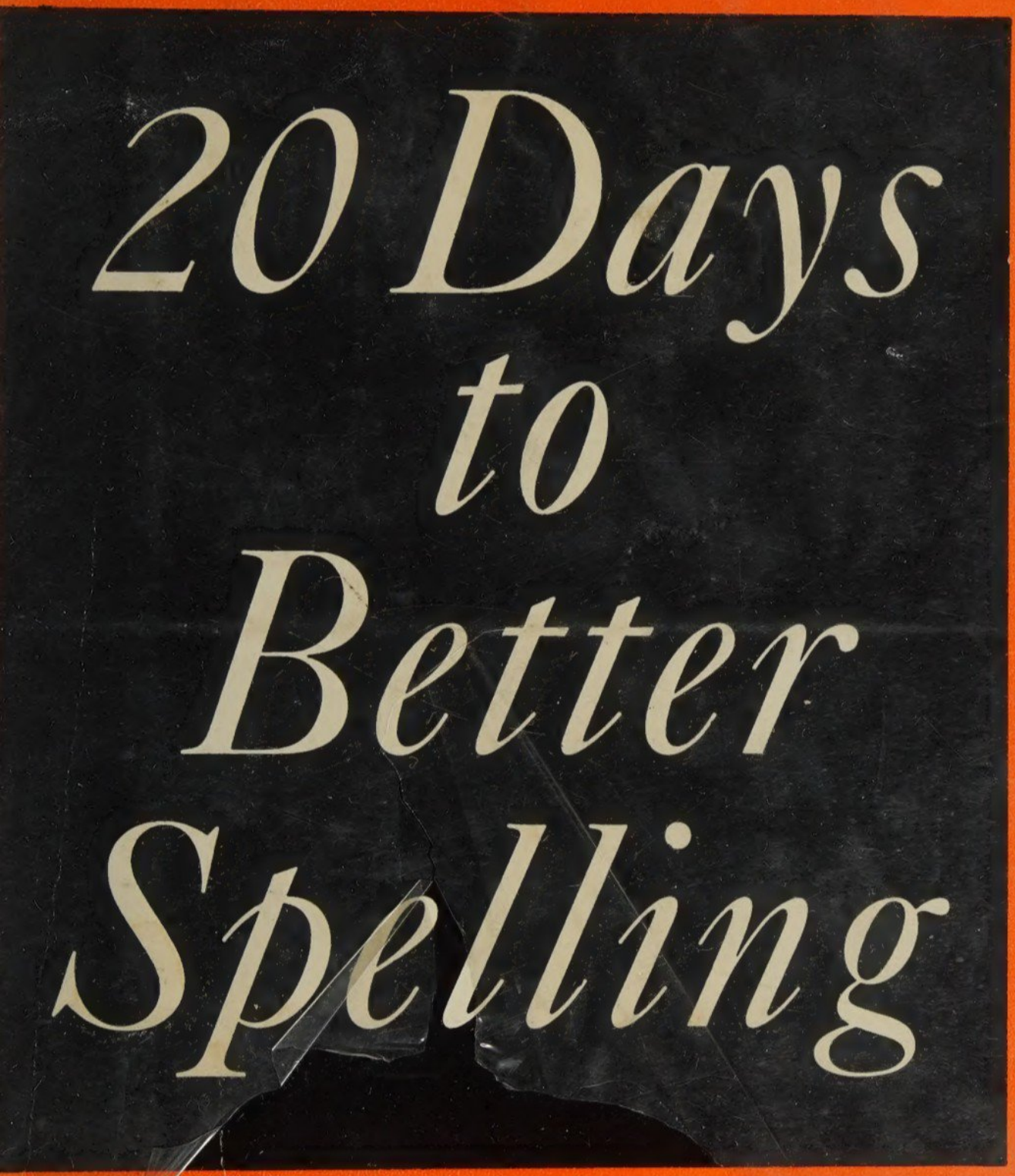

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